

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
2 SKYLINE, 10th FLOOR  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

February 15, 1995

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. LAKE 93-261
Petitioner	:	A.C. No. 12-02033-03596
v.	:	
	:	Docket No. LAKE 93-268
BUCK CREEK COAL INC.,	:	A.C. No. 12-02033-03597
Respondent	:	
	:	Docket No. LAKE 93-273
	:	A.C. No. 12-02033-03598
	:	
	:	Docket No. LAKE 93-278
	:	A.C. No. 12-02033-03599
	:	
	:	Docket No. LAKE 94-8
	:	A.C. No. 12-02033-03600
	:	
	:	Docket No. LAKE 94-13
	:	A.C. No. 12-02033-03601
	:	
	:	Docket No. LAKE 94-21
	:	A.C. No. 12-02033-03602
	:	
	:	Docket No. LAKE 94-41
	:	A.C. No. 12-02033-03603
	:	
	:	Docket No. LAKE 94-42
	:	A.C. No. 12-02033-03604
	:	
	:	Docket No. LAKE 94-50
	:	A.C. No. 12-02033-03605
	:	
	:	Docket No. LAKE 94-72
	:	A.C. No. 12-02033-03606
	:	
	:	Docket No. LAKE 94-73
	:	A.C. No. 12-02033-03607
	:	
	:	Docket No. LAKE 94-81
	:	A.C. No. 12-02033-03608
	:	
	:	Docket No. LAKE 94-89
	:	A.C. No. 12-02033-03610
	:	

: Docket No. LAKE 94-111  
: A.C. No. 12-02033-03611  
: Docket No. LAKE 94-128  
: A.C. No. 12-02033-03614  
:  
: Docket No. LAKE 94-142  
: A.C. No. 12-02033-03615  
:  
: Docket No. LAKE 94-143  
: A.C. No. 12-02033-03616  
:  
: Docket No. LAKE 94-210  
: A.C. No. 12-02033-03620  
:  
: Docket No. LAKE 94-211  
: A.C. No. 12-02033-03621  
:  
: Docket No. LAKE 94-220  
: A.C. No. 12-02033-03622  
:  
: Docket No. LAKE 94-433  
: A.C. No. 12-02033-03623  
:  
: Docket No. LAKE 94-434  
: A.C. No. 12-02033-03624  
:  
: Docket No. LAKE 94-435  
: A.C. No. 12-02033-03625  
:  
: Docket No. LAKE 94-600  
: A.C. No. 12-02033-03626  
:  
: Docket No. LAKE 94-601  
: A.C. No. 12-02033-03627  
:  
: Docket No. LAKE 94-602  
: A.C. No. 12-02033-03629  
:  
: Docket No. LAKE 94-603  
: A.C. No. 12-02033-03630  
:  
: Docket No. LAKE 94-604  
: A.C. No. 12-02033-03631  
:  
: Docket No. LAKE 94-605  
: A.C. No. 12-02033-03632  
:  
: Docket No. LAKE 94-606  
: A.C. No. 12-02033-03633  
:

: Docket No. LAKE 94-669  
: A.C. No. 12-02033-03636

: Docket No. LAKE 94-670  
: A.C. No. 12-02033-03637  
: Docket No. LAKE 94-671  
: A.C. No. 12-02033-03638

:  
: Docket No. LAKE 94-677  
: A.C. No. 12-02033-03640

:  
: Docket No. LAKE 94-707  
: A.C. No. 12-02033-03641

:  
: Docket No. LAKE 94-708  
: A.C. No. 12-02033-03642

:  
: Docket No. LAKE 94-709  
: A.C. No. 12-02033-03643

:  
: Docket No. LAKE 94-710  
: A.C. No. 12-02033-03644

:  
: Docket No. LAKE 94-714  
: A.C. No. 12-02033-03645

:  
: Docket No. LAKE 94-745  
: A.C. No. 12-02033-03646

:  
: Docket No. LAKE 94-746  
: A.C. No. 12-02033-03647

:  
: Docket No. LAKE 95-24  
: A.C. No. 12-02033-03648

:  
: Docket No. LAKE 95-49  
: A.C. No. 12-02033-03652

:  
: Docket No. LAKE 95-50  
: A.C. No. 12-02033-03652

:  
: Docket No. LAKE 95-51  
: A.C. No. 12-02033-03652

:  
: Docket No. LAKE 95-52  
: A.C. No. 12-02033-03650

:  
: Docket No. LAKE 95-74

: A.C. No. 12-02033-03653  
:  
: Docket No. LAKE 95-87  
: A.C. No. 12-02033-03654

: Docket No. LAKE 95-94  
: A.C. No. 12-02033-03655  
:

: Docket No. LAKE 95-111  
: A.C. No. 12-02033-03656  
:

: Docket No. LAKE 95-112  
: A.C. No. 12-02033-03657  
:

: Docket No. LAKE 95-154  
: A.C. No. 12-02033-03658  
:

: Docket No. LAKE 95-158  
: A.C. No. 12-02033-03659  
:

: Buck Creek Mine  
:  
:

: CONTEST PROCEEDINGS  
:  
:

: Docket Nos. LAKE 94-162-R,  
: LAKE 94-253-R thru 94-394-R,  
: LAKE 94-356-R thru 94-357-R,  
: LAKE 94-370-R thru 94-394-R,  
: LAKE 94-408-R thru 94-409-R,  
: LAKE 94-410-R thru 94-425-R,  
: LAKE 94-447-R thru 94-454-R  
: LAKE 94-461-R thru 94-562-R,  
: LAKE 94-569-R thru 94-597-R,  
: LAKE 94-607-R thru 94-613-R,  
: LAKE 94-637-R thru 94-646-R,  
: LAKE 94-660-R thru 94-667-R,  
: LAKE 94-672-R thru 94-674-R,  
: LAKE 94-681-R thru 94-691-R,  
: LAKE 94-697-R thru 94-703-R,  
: LAKE 94-717-R thru 94-744-R,  
: LAKE 95- 1-R thru 95- 14-R,  
: LAKE 95- 18-R thru 95- 22-R,  
: LAKE 95- 26-R thru 95- 42-R,  
: LAKE 95- 57-R thru 95- 73-R,  
: LAKE 95- 75-R thru 95- 77-R,  
: LAKE 95- 82-R,  
: LAKE 95- 96-R thru 95-104-R,

BUCK CREEK COAL INC.,  
Contestant

v.

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
Respondent

: LAKE 95-115-R thru 95-118-R,  
: LAKE 95-136-R thru 95-154-R,  
: LAKE 95-158-R and 95-171-R.  
:  
: BUCK CREEK MINE  
: Mine ID 12-02033

### ORDER CONTINUING STAY

By an order dated September 8, 1994, all cases involving Buck Creek, before me or subsequently assigned to me, were stayed for 90 days or until such time as the United States Attorney for the Southern District of Indiana made a determination regarding the prosecution of Buck Creek Coal, Inc. and any of its officers, whichever occurred first. On December 7, 1994, the Secretary filed a motion requesting a 90 day extension of the stay.

An extension of the stay was granted on January 10, 1995, until a prehearing conference was held on February 9, 1995, to determine whether the stay should be continued. At the prehearing conference, the Secretary requested that the stay be continued for 90 days. The Secretary's counsel stated that at the end of 90 days the Secretary would be in a position to state specifically which dockets and citations were involved in the criminal proceedings, which were not, and whether the cases not involved could proceed to disposition. (Tr. 37-38.) Buck Creek opposes continuing the stay.

After weighing the interests of the parties, I conclude that the reasons for originally granting the stay still apply. Accordingly, it is **ORDERED** that the **STAY** in these cases is **CONTINUED** until May 16, 1995. The provisions concerning the lifting of the stay in individual cases set out in the September 8, 1994, order remain in effect.

It is **FURTHER ORDERED** that a status conference will be held on Tuesday, **May 16, 1995**, for the purpose of determining whether the stay should be continued beyond the conference; if so, under what conditions; whether it will include all docketed cases as well as future cases; and whether some cases can be separated from the rest and proceed to disposition without prejudice to either party. The conference will begin at **9:00 A.M.** at the following location:

**Hearing Room**

Office of Administrative Law Judges  
2 Skyline, 10th Floor  
5203 Leesburg Pike  
Falls Church, Virginia 22041

T. Todd Hodgdon  
Administrative Law Judge  
(703) 756-4570

Distribution:

Rafael Alvarez, Esq., Office of the Solicitor, U.S. Department of  
Labor, 230 S. Dearborn Street, 8th Floor, Chicago, IL 60604  
(Certified Mail)

Henry Chajet, Esq., Jackson & Kelly, 2401 Pennsylvania Avenue,  
N.W., Suite 400, Washington, DC 20037 (Certified Mail)

/lbk

