

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

July 5, 2002

FREEMAN UNITED COAL COMPANY,	:	CONTEST PROCEEDINGS
	:	
Contestant	:	Docket No. LAKE 2000-102-R
	:	Citation No. 7584882; 6/22/2000
	:	
	:	Docket No. LAKE 2000-103-R
v.	:	Citation No. 7584883; 6/22/2000
	:	
	:	Docket No. LAKE 2000-104-R
	:	Citation No. 7584884; 6/22/2000
	:	
SECRETARY OF LABOR	:	Docket No. LAKE 2000-105-R
MINE SAFETY AND HEALTH	:	Citation No. 7584885; 6/22/2000
ADMINISTRATION, (MSHA),	:	
Respondent	:	Crown II Mine
	:	Mine ID 11-02236

**DECISION**

Before: Judge Melick

On June 24, 2002, a Commission majority remanded these Contest Proceedings for a civil penalty assessment. However these cases were filed with this Commission pursuant to Section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.*, (1994), the “Act,” to challenge only the validity of the four “Section 104(a)” citations at bar. No civil penalty has been sought in these contest cases and the Secretary of Labor has not, to date, filed any petition or other pleading seeking any civil penalty for the violations charged in these citations. Under the circumstances, this Commission is without jurisdiction in these contest cases to assess a civil penalty.

Accordingly, the Commission majority’s decision on June 24, 2002, effectively dismissing these Contest Proceedings, must be considered the final disposition of these proceedings.

Gary Melick  
Administrative Law Judge

Distribution: (Certified Mail)

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