

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
601New Jersey Ave., N.W., Suite 9500
Washington, DC 20001-2021

May 11, 2005

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. SE 2004-185-M
Petitioner : A.C. No. 31-02071-26994
v. :
: :
WAKE STONE CORP., :
Respondent. : Nash County Quarry

DECISION

Before: Judge Weisberger

Pursuant to the Commission’s Decision in this matter issued March 23, 2005, the parties were directed to confer and attempt to reach an agreement with regard to the factors set forth in Section 110(i) of the Federal Mine Safety and Health Act of 1977.

In compliance with this directive, on April 21, 2005, the parties filed an Amended Joint Stipulation setting forth their agreement as follows: (1) The character of the history of previous violations is normal or below for a company of this size. (2) The \$60 penalty is appropriate to the size, which is large, of the business of the operator charged. (3) Under 110(i), the operator was negligent to a moderate degree. (4) The effect on the operator’s ability to continue in business is not affected. (5) The gravity of the violation is of a moderate and non-serious level. (6) The operator demonstrated good faith in achieving rapid compliance after notification of the violation.

Based on the parties stipulations regarding the factors set forth in Section 110(i) of the Act, and considering the record in this case, including the facts asserted in the citation that are not disputed, I find that a penalty of \$60 is appropriate for the violation of 30 C.F.R. § 56,171.32(a).

It is **Ordered** that Respondent pay a civil penalty \$60 within 30 days of this Decision.

Avram Weisberger
Administrative Law Judge

Distribution:

Melody S. Wesson, Conference & Litigation Representative, U.S. Department of Labor, MSHA,
135 Gemini Circle, Suite 212, Birmingham, AL 35209

Roland Massey, Safety & Health Director, Wake Stone Corporation, P.O. Box 190, Knightdale,
NC 27545

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