

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1730 K STREET, N.W., SUITE 600
WASHINGTON, D.C. 20006

August 22, 1995

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEVA 95-16
Petitioner	:	A. C. No. 46-07062-03619
	:	
v.	:	Docket No. WEVA 95-64
FERN COVE INCORPORATED,	:	A. C. No. 46-07062-03623
Respondent	:	
	:	Coalbank Fork No. 12
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEVA 95-65
Petitioner	:	A. C. No. 46-06329-03657
	:	
v.	:	Tanglewood No. 2
TANGLEWOOD ENERGY,	:	
INCORPORATED,	:	
Respondent	:	

ORDER OF DEFAULT

Before: Judge Merlin

A show cause order was issued in Docket No. WEVA 95-16 on February 8, 1995.

A show cause order was issued in Docket No. WEVA 95-65 on February 28, 1995.

A show cause order was issued in Docket No. WEVA 95-64 on February 28, 1995.

On April 27, 1995, an order was issued staying these cases. The operator had petitioned the Commission for relief in 120 civil penalty cases where it failed to either timely contest the civil penalty assessment or was held in default for failing to answer the Secretary's penalty petition. Therefore, these matters were stayed pending a decision by the Commission in these cases.

On July 13, 1995, the Commission issued a decision with respect to the operator's petition for relief. The Commission denied the operator's request to reopen the 120 civil penalty cases. The Commission found that the operator failed to provide

sufficient grounds or adequate explanations to justify relief from the final orders. Tanglewood Energy Inc. and Fern Cove Inc., 17 FMSHRC 1105.

The files contain the return receipt showing that the operator received a copy of the April 27 order on May 9, 1995. In addition, the files contain return receipts showing that the operator received a show cause order for Docket No. WEVA 95-16 on February 16, 1995, for Docket No. WEVA 95-64 on March 2, 1995, and Docket No. WEVA 95-65 on March 2, 1995. The operator did not file an answer or response to the show cause orders in any of these cases. More than 30 days has past since the Commission's decision and the operator still has not filed any response. Therefore, these cases are now ripe for default.

Accordingly, it is **ORDERED** that the operator be held in **DEFAULT** for the penalty amounts in these cases totaling \$39,049 and that it **PAY** this sum immediately.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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