

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET N.W., 6TH FLOOR
WASHINGTON, D.C. 20006

March 20, 1996

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. YORK 95-102-M
Petitioner	:	A. C. No. 19-00408-05518
v.	:	
GENERAL ROAD TRUCKING	:	County Street Mine and Mill
CORPORATION,	:	
Respondent	:	

ORDER OF DEFAULT

Before: Judge Merlin

This case is now before me pursuant to Order of the Commission dated December 26, 1995.

A review of the file shows that an order to show cause was issued to the operator on September 14, 1995. The file contains the return receipt showing that the operator received the order on September 18, 1995. Since the operator failed to respond to the show cause order, an order holding it in default was issued on November 20, 1995. The file contains the return receipt showing that the operator received the default on November 22, 1995. The Commission was unaware that the operator had received the default order, because the return receipt had not been associated with the file at the time the case was before the Commission.

The operator in its letter to the Commission dated November 29, 1995, admits that it received the show cause order, but makes no mention of the default which it had received a week earlier. The operator also alleges it is not liable, because it does not run the facility in question.

On January 25, 1996, an order to submit information and show cause was issued directing the operator to explain (1) the two month delay in its response to the September 14 show cause order, (2) why relief from default should be granted and (3) why its November 29 letter made no mention of the default order it had received. It was noted that in the past two years the operator had been a party in eight other cases before the Commission and that it had been defaulted in four. Docket Nos. YORK 95-94, YORK 95-95, YORK 95-96 and YORK 95-99.

The file contains the return receipt showing that the operator received the January 25 order on January 31, 1996. To date no response has been received. Since the operator has failed to comply with the January 25 show cause order, it is in default.

In light of the foregoing, it is **ORDERED** that the operator be held in **DEFAULT** for the penalty amount of \$1,200 and that it **PAY** this sum immediately.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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