

CCASE:
MSHA V. KAISER STEEL
DDATE:
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TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
WASHINGTON, D.C. 20006
August 4, 1980

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

v. Docket No. DENV 78-512-P

KAISER STEEL CORPORATION

ORDER

This penalty proceeding was initially tried before Administrative Law Judge Michels on June 20, 1980. After an evidentiary hearing, but before decision, Judge Michels retired from federal service. The case was then reassigned to Chief Administrative Law Judge Broderick, who, upon agreement of the parties, decided the case on the basis of the record made before Judge Michels. Judge Broderick's decision was adverse to Kaiser Steel Corporation. Kaiser then filed a petition for discretionary review with the Commission, which we granted.

At the time we considered Kaiser's petition, we discovered that the record, as transmitted to the Commission, did not contain several of the exhibits admitted into evidence at the hearing below. We so advised the parties and upon our request the Secretary and Kaiser submitted to the Commission copies of the missing exhibits. The record is now complete. Because we do not know when or how these exhibits were separated from the record, we are not certain whether Judge Broderick had all of the exhibits before him at the time he decided the case. Therefore, we vacate the judge's decision and remand the case to the judge for whatever further proceedings or consideration he may deem appropriate in the circumstances.

Marian Pearlman Nease, Commissioner

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Chief Administrative Law Judge James A. Broderick
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