

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

601 NEW JERSEY AVENUE, NW  
SUITE 9500  
WASHINGTON, DC 20001

August 23, 2011

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Docket No. WEVA 2009-857
ADMINISTRATION (MSHA)	:	A.C. No. 46-08751-152739
	:	
v.	:	Docket No. WEVA 2009-1131
	:	A.C. No. 46-08751-159510
KINGWOOD MINING COMPANY, LLC	:	

BEFORE: Jordan, Chairman; Duffy, Young, Cohen, and Nakamura, Commissioners

ORDER

BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2006) (“Mine Act”). On February 12 and April 7, 2009, the Commission received from Kingwood Mining Company, LLC (“Kingwood”) motions by counsel to reopen two penalty assessments that had become final orders of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).<sup>1</sup> The Secretary opposed both motions to reopen.

On April 19, 2011, Kingwood filed motions to withdraw its requests to reopen. The operator requests that its earlier motions be dismissed without prejudice in order that Kingwood, which has ceased mining operations at the mine subject to the penalties at issue, may enter into a global settlement of all outstanding penalties that the mine owes to the Department of Labor’s Mine Safety and Health Administration. Kingwood’s motions to withdraw did not indicate the Secretary’s position on the matter, and she has not responded to the motions.

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<sup>1</sup> Pursuant to Commission Procedural Rule 12, on our own motion, we hereby consolidate docket numbers WEVA 2009-857 and WEVA 2009-1131, both captioned *Kingwood Mining Company, LLC*, and involving similar procedural issues. 29 C.F.R. § 2700.12.

Having considered Kingwood's motions to withdraw, we hereby grant its requests and dismiss its earlier motions to reopen without prejudice.

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Mary Lu Jordan, Chairman

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Michael F. Duffy, Commissioner

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Michael G. Young, Commissioner

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Robert F. Cohen, Jr., Commissioner

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Patrick K. Nakamura, Commissioner

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