

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVENUE, NW, SUITE 520N
WASHINGTON, D.C. 20004-1710

December 5, 2024

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	
v.	:	Docket No. CENT 2023-0185
	:	A.C. No. 14-01478-574480
NELSON QUARRIES, INC.	:	

BEFORE: Jordan, Chair; Baker and Marvit, 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. (2018) (“Mine Act”). On January 3, 2024, the Commission received from Nelson Quarries, Inc. (“Nelson”) a motion seeking to reopen a penalty assessment proceeding and relieve it from the Default Order entered against it.

On August 22, 2023, the Chief Administrative Law Judge issued an Order to Show Cause and Order of Default in response to Nelson’s alleged failure to answer the Secretary of Labor’s June 22, 2023 Petition for Assessment of Civil Penalty. By its terms, the Order to Show Cause was deemed a Default Order on September 21, 2023, when it appeared that the operator had not filed an answer within 30 days.

In its motion to reopen, the operator asserts that it never received the Secretary’s petition for assessment of civil penalties. The Secretary does not oppose the operator’s request to reopen. The Secretary notes that the petition for assessment of civil penalties and the Commission’s Order to Show Cause were both sent to an incorrect email address.¹


Because the Secretary’s petition and the Commission’s orders were sent to an incorrect address there is no final order. The operator’s motion to reopen is moot.

¹ The documents were sent to Patrickclift@gmail.com when they should have been sent to Patrick.clift@gmail.com.

This matter is returned to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission's Procedural Rules, 29 C.F.R. Part 2700. Accordingly, consistent with Rule 28, the Secretary shall re-file a petition for assessment of penalty within 45 days of the date of this order. *See* 29 C.F.R. § 2700.28.



Mary Lu Jordan, Chair



Timothy J. Baker, Commissioner



Moshe Z. Marvit, Commissioner

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