

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

1331 PENNSYLVANIA AVE., N.W., SUITE 520N

WASHINGTON, DC 20004-1710

**MAR 07 2018**

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

v.

MILESTONE MATERIALS DIV /  
MATHY CONSTRUCTION

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Docket No. LAKE 2017-22-M  
A.C. No. 47-03084-415348

BEFORE: Althen, Acting Chairman; Jordan, Young, and Cohen, Commissioners


**ORDER**

BY THE COMMISSION:

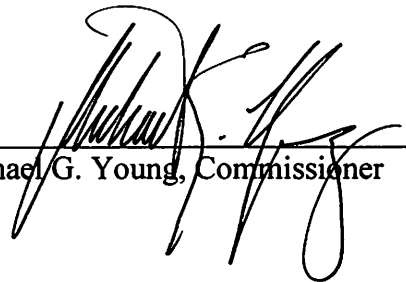
This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2012) (“Mine Act”). The Commission has received a motion from the operator seeking to reopen a penalty assessment which had become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 813(a). The Secretary states that he does not oppose the motion.

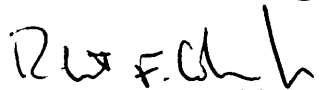
Having reviewed movant’s unopposed motion to reopen, we reopen this matter and remand it to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission’s Procedural Rules, 29 C.F.R. Part 2700. Consistent with Rule 28, the Secretary shall file a petition for assessment of penalty within 45 days of the date of this order. *See* 29 C.F.R. § 2700.28.

The granting of this motion is not precedential for the consideration of any other motion before the Commission.

  
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William I. Althen, Acting Chairman

  
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Mary Lu Jordan, Commissioner

  
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Michael G. Young, Commissioner

  
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Robert F. Cohen, Jr., Commissioner

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