

of good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

Records of the Department of Labor's Mine Safety and Health Administration ("MSHA") indicate that the proposed assessments in both proceedings were delivered on August 10, 2015, and became final orders of the Commission on September 9, 2015. HNS asserts that it inadvertently failed to contest the assessments because its secretary/treasurer was out of town during the summer in which the instant citations were issued. The employees at the mine were unaware that they were required to follow up with MSHA and contest the citations. As a result, the Notice of Contest was not filed until the secretary/treasurer returned to the mine. The Secretary does not oppose the request to reopen.

Having reviewed HNS' request and the Secretary's response, we find that the operator's failure to timely contest the citation herein was the result of inadvertent mistake. In the interest of justice, we hereby reopen Docket No. WEST 2016-108-M 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. Accordingly, 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.



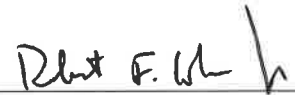
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