

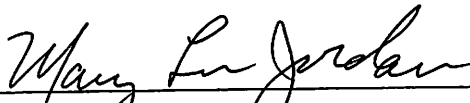
good cause for a failure to timely respond, the case may be reopened and appropriate proceedings on the merits permitted. *See Coal Prep. Servs., Inc.*, 17 FMSHRC 1529, 1530 (Sept. 1995).

Records of the Department of Labor's Mine Safety and Health Administration ("MSHA") indicate that the proposed assessment was delivered on July 24, 2013, and became a final order of the Commission on August 23, 2013. The operator paid the penalty in full by check dated August 12, 2013. On January 24, 2014, MSHA informed an agent of the operator of its proposal to assess an individual civil penalty against him under section 110(c) of the Mine Act, 30 U.S.C. § 820(c). Livingston contends that it would not have made the above payment if it had known that MSHA intended to pursue a 110(c) investigation followed by a finding of individual liability. Therefore, the operator seeks to reopen this matter, presumably to ensure that payment will not constitute an admission of wrongdoing on the part of the operator or its agents.

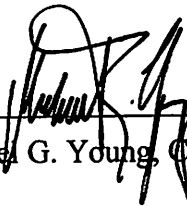
The Secretary opposes the request to reopen, noting that the operator's concerns are unfounded. The Secretary assures the operator that he will not argue that Livingston's payment estops its agent from litigating any aspect of the underlying violation.

Having reviewed Livingston's request and the Secretary's response, we conclude that the outcome of the matter before us will not prejudice any future section 110(c) proceeding.


Accordingly, we deny Livingston's motion with prejudice.



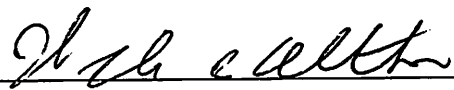
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