

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVENUE, NW, SUITE 520N

WASHINGTON, D.C. 20004-1710

June 20, 2014

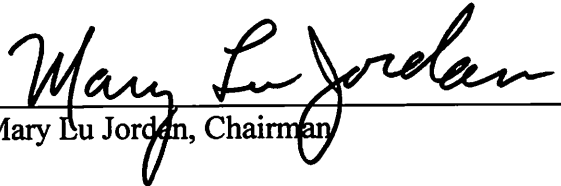
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Docket Nos. KENT 2011-1354
ADMINISTRATION (MSHA)	:	KENT 2011-1385
	:	KENT 2011-1386
v.	:	
	:	
	:	
CLINTWOOD ELKHORN MINING	:	
COMPANY, INC.	:	

ORDER

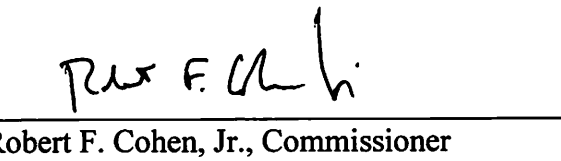
A petition for discretionary review was filed by Clintwood Elkhorn Mining Company, Inc. on June 16, 2014. This petition was filed pursuant to section 113(d)(2) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 823(d)(2). Section 113(d)(2)(A)(1) of the Mine Act states that a petition for discretionary review by the Commission may be filed within 30 days after the issuance of the judge's decision. 30 U.S.C. § 823(d)(2)(A)(1).

The judge's decision was issued on May 14, 2014. Any petition for discretionary review was due 30 days thereafter, on June 13, 2014. Although the judge filed an amended decision on May 15, 2014, correcting a clerical error, Commission Procedural Rule 69(c) states that the issuance of an amended decision correcting a clerical error shall not toll the time for filing a petition for discretionary review of the judge's decision on the merits. 29 C.F.R. § 2700.69(c). Thus the 30-day time limit for filing the petition started to run from May 14 (the date of the initial decision) rather than from May 15 (the date of the amended decision).


The petition for discretionary review is therefore denied. Consequently, the decision of Administrative Law Judge Priscilla M. Rae dated May 14, 2014, is final as of 40 days after its issuance. 30 U.S.C. § 823(d)(1).¹


Mary Lu Jordan, Chairman


Michael G. Young, Commissioner


Robert F. Cohen, Jr., Commissioner


Patrick K. Nakamura, Commissioner


William I. Althen, Commissioner

¹ Separately, we note that no two Commissioners would have voted to grant the petition on the merits.

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