



Knife River states that it misunderstood the instructions on the assessment form and mailed the contest of the proposed penalties to the Commission, rather than to the Department of Labor's Mine Safety and Health Administration ("MSHA"). Knife River further states that it was unaware of its error until it received a delinquency notice from MSHA and then immediately called MSHA and learned that it had sent the contest to the wrong address.

The Secretary does not oppose Knife River's motion to reopen.

Having reviewed Knife River's request and the Secretary's response, in the interests of justice, we hereby 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. 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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Mary Lu Jordan, Chairman

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Michael F. Duffy, Commissioner

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Michael G. Young, Commissioner

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Robert F. Cohen, Jr., Commissioner

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