

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 NEW JERSEY AVENUE, NW

SUITE 9500

WASHINGTON, DC 20001

June 3, 2011

SECRETARY OF LABOR	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	
	:	Docket No. WEST 2011-249-M
v.	:	A.C. No. 05-04358-225893
	:	
ABSMEIER LANDSCAPING AND	:	
CONSTRUCTION, LLC	:	

BEFORE: Jordan, Chairman; Duffy, Young, Cohen, and Nakamura, 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. (2006) (“Mine Act”). On November 23, 2010, the Commission received a request to reopen a penalty assessment issued to Absmeier Landscaping and Construction, LLC (“Absmeier”) that had become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a). The Secretary of Labor filed a response opposing the operator’s request dated December 23, 2010.

Based upon a review of the Mine Safety and Health Administration’s online data retrieval system, it appears that Absmeier has paid the civil penalty for Citation No. 6446353, which is the subject of its request to reopen. The parties have not filed pleadings subsequent to the Secretary’s opposition to inform the Commission of any change in the status of this proceeding.

Absmeier is hereby ordered to show cause within thirty (30) days of the date of this order why its request to reopen should not be denied as moot because the penalty has been paid. In the event that Absmeier fails to timely respond to this order, its request will be deemed denied without further order of the Commission.

Mary Lu Jordan, Chairman

Michael F. Duffy, Commissioner

Michael G. Young, Commissioner

Robert F. Cohen, Jr., Commissioner

Patrick K. Nakamura, Commissioner

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