

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 NEW JERSEY AVENUE, NW

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WASHINGTON, DC 20001

November 10, 2005

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Docket Nos. WEST 2000-480-R
ADMINISTRATION (MSHA)	:	WEST 2002-131
	:	
v.	:	
	:	
TWENTYMILE COAL COMPANY	:	

BEFORE: Duffy, Chairman; Jordan, Suboleski, and Young, Commissioners

ORDER

BY THE COMMISSION:

This consolidated contest and civil penalty proceeding arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2000), involves an order issued to Twentymile Coal Company (“Twentymile”) by the Department of Labor’s Mine Safety and Health Administration as a result of a violation of the mandatory training standard at 30 C.F.R. § 48.7(c).

Following a decision by the Commission (26 FMSHRC 666 (Aug. 2004)), both the Secretary of Labor and Twentymile petitioned for court review of the Commission’s decision. In *Secretary of Labor v. Twentymile Coal Co.*, 411 F.3d 256 (D.C. Cir. 2005), the District of Columbia Circuit Court of Appeals affirmed the Commission on the question of violation but vacated the Commission’s order setting aside the Secretary’s proposed penalty.

In vacating the Commission’s decision on the penalty issue the court remanded the matter to the Commission for proceedings not inconsistent with the instructions contained within the

court's opinion. *Id.* at 262. Accordingly, the Commission reinstates the \$1,500 penalty originally assessed by the judge.

Michael F. Duffy, Chairman

Mary Lu Jordan, Commissioner

Stanley C. Suboleski, Commissioner

Michael G. Young, Commissioner

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