



The motion filed by counsel sets forth conflicting and confused information identifying the movant in the motion to reopen and the facts of this case. In the caption of the motion, counsel identify the respondent as “Delbarton Preparation Plant,” and identify the mine as “Mass Transport Inc.”<sup>1</sup> (The caption is wrong in both respects.) In the motion itself, counsel state that the motion is brought by “Delbarton Preparation Plant, Mass Transport Inc. (‘Delbarton’),” and note that “Mass Transport Inc. is owned and operated by Logan County Mine Services, Inc., but is a contractor for Delbarton Preparation Plant and was doing work for Delbarton at the time the citation was issued.” Counsel state that the proposed penalty assessment was issued to “Delbarton” on about May 23, 2007, and that the Proposed Assessment “was mailed to Mass Transport Inc.” at an address “which is not, and has never been, either the mailing address or physical address of either Delbarton or Mass Transport.”

According to its terms, the proposed penalty assessment was issued only to Mass Transport Inc. Thus, the request to reopen should have been filed solely by Mass Transport Inc. We deny the motion to reopen because counsels’ motion is unacceptably confused and erroneous in several respects and does not even make clear what entity is actually filing the motion. In particular, counsel have not established that the movant, as identified in the motion to reopen, has standing to make this request.

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Michael F. Duffy, Chairman

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Mary Lu Jordan, Commissioner

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Michael G. Young, Commissioner

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Robert F. Cohen, Jr., Commissioner

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<sup>1</sup> Although the caption of the motion to reopen identifies the respondent as “Delbarton Preparation Plant,” the Commission’s Docket Office issued a docketing notice that correctly lists Mass Transport Inc. as the respondent.

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