NOTICE

1. Enclosed is a copy of a decision by an Administrative Law Judge of the Federal Mine Safety and Health Review Commission. The issuance date of this decision appears on the first page of the Decision.

THIS DECISION MUST BE POSTED ON THE MINE BULLETIN BOARD BY THE OPERATOR.

2. You may petition for review of this decision by the Commission. A PETITION FOR DISCRETIONARY REVIEW must be received by the Commission within thirty (30) calendar days after the issuance date of the decision to be considered [29 C.F.R. § 2700.5(f) and .70(a)]. If this decision is an ORDER OF TEMPORARY REINSTATEMENT, the Petition for Review must be received within 5 days of the receipt of the order [29 C.F.R. § 2700.45(f)].

If a party wishes to file a petition for discretionary review, you are encouraged to file it within the Commission's electronic filing system (https://www.fmshrc.gov). Petitions arenot currently being accepted via fax during the Commission's pandemic related operational changes (https://www.fmshrc.gov). If you mail the petition, you should allow enough time for delivery by the thirtieth day. Petitions should be filed at:

DOCKET OFFICE
FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1331 Pennsylvania Ave., N.W., Suite 520 N
WASHINGTON, D.C. 20004-1710
Telephone No. (202) 434-9950

3. The Federal Mine Safety and Health Review Commission's Rules of Procedure specify that a petition may be filed only on one or more of the following grounds:

A. **A finding or conclusion of material fact is not supported by substantial evidence.**
B. **A necessary legal conclusion is erroneous.**
C. **The decision is contrary to law or to the duly promulgated rules or decision of the Commission.**
D. **A substantial question of law, policy or discretion is involved.**
E. **A prejudicial error of procedure was committed.**

Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignment of error are based on the record. Statutes, regulations or principal authorities shall be relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge has not been afforded an opportunity to pass. For further details on the filing of documents and the review process, see 30 U.S.C. § 823{d) and Commission rules 5 through 9 and .70 through .78 [29 C.F.R. §2700.5-.9 and .70-.78].

4. **A Petition for Review must be served on the opposing party.**

5. **If a petition is filed, each party will be notified of the Commission's action on the petition.**

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF THE CHIEF ADMINISTRATIVE LAW JUDGE
1331 PENNSYLVANIA AVE., N.W., SUITE 1400
WASHINGTON, DC 20004-1710
TELEPHONE: 202 434-9987

July 23, 2026

SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Petitioner,	CIVIL PENALTY PROCEEDING Docket No. WEST 2021-0229 A.C. No. 42-01566-535306
v.	Docket No. WEST 2021-0254 A.C. No. 42-01566-536066
CANYON FUEL COMPANY, LLC, Respondent,	
&	
SHANE ALLRED, employed by CANYON FUEL COMPANY, LLC, Respondent,	Docket No. WEST 2021-0315 A.C. No. 42-01566-540910A
MICHAEL COOPER, employed by CANYON FUEL COMPANY, LLC, Respondent.	Docket No. WEST 2021-0319 A.C. No. 42-01566-540909A
	Mine: Skyline Mine #3[1]

DECISION AND ORDER ON REMAND
ORDER TO PAY

Before: Judge Young

This matter is before me pursuant to an Order for Remand issued by the Federal Mine Safety and Health Review Commission ("Commission") on January 30, 2026. *Canyon Fuel Co.,*

[1] The order at issue in this decision, Order No. 8541891, is docketed under Docket No. WEST 2021-0188. On September 7, 2021, this docket was consolidated with Docket Nos. WEST 2021-0229 and WEST 2021-0254. *See* Order to Consolidate (Sept. 7, 2021). On October 25, 2021, these dockets were subsequently consolidated with additional related Docket Nos. WEST 2021-0314, WEST 2021-0317, WEST 2021-0318, and WEST 2021-0319. *See* Order of Consolidation (Oct. 25, 2021). This caption contains all dockets listed in the Commission's decision.

et al., 48 FMSHRC 2 (Jan. 2026). It involves a petition for assessment of civil penalty filed by the Secretary of Labor ("Secretary") through the Mine Safety and Health Administration ("MSHA") against Respondent Canyon Fuel Company, LLC ("Respondent") for an accident that occurred at the Skyline Mine #3 ("Skyline").[2]

I. HISTORY OF THE CASE

On August 25, 2020, a miner was seriously injured in an accident where a violent bounce caused a rib to blow out on the 8 Right Longwall of the mine. GX-2 at DOL 0037–38. There was no standing support installed in this area prior to the bounce. *Id.* The rib burst struck the injured miner, and he sustained serious head and neck injuries, including a concussion, which required hospitalization and surgery. Five days before this accident occurred, on August 20, a previous bounce had occurred in this area of the mine. *Id.*

On September 10, 2020, MSHA issued Section 104(d)(1) Order No. 8541891, alleging Respondent violated 30 C.F.R. § 75.202(a), which requires an operator to protect miners from mine roof, face, and rib falls. *Id.* The inspector designated this order as Significant and Substantial ("S&S"), having occurred and causing an injury, and the result of Respondent's high negligence and an unwarrantable failure to comply with a mandatory standard. *Id.* The Secretary proposed a penalty of $74,700.00. Pet. at 4, No. WEST 2021-0254 (Aug. 6, 2021).

MSHA also issued Order No. 8541892 to Respondent, which alleged the operator failed to report an immediately reportable injury that had a reasonable potential to cause death in violation of Section 50.10. GX-1. MSHA also assessed penalties against five of Respondent's employees at Skyline for individual liability for this violation under Section 110(c) of the Mine Act. *See generally* Pet., No. WEST 2021-0314 (Oct. 8, 2021); Pet., No. WEST 2021-0315 (Oct. 8, 2021); Pet., No. WEST 2021-0317 (Oct. 8, 2021); Pet., No. WEST 2021-0318 (Oct. 8, 2021); Pet., No. WEST 2021-0319 (Oct. 8, 2021).

A hearing was held in these cases on May 17–19, 2022, and on May 23, 2023, I issued a decision in which I affirmed both orders, as well as the finding of individual liability for two of Respondent's employees. *See generally Canyon Fuel Co., et al*, 45 FMSHRC 328, 329, 378–79 (May 2023).

While I affirmed the violation for Order No. 8541891, including the gravity determinations and the S&S designation, I found this violation was the result of moderate negligence and was not an unwarrantable failure to comply with a mandatory standard. *Id.* at 343–46. I assessed a $25,000.00 penalty for this violation. *Id.*

[2] This order incorporates all findings and conclusions from my initial decision issued on May 23, 2023, *Canyon Fuel Company, et al*, 45 FMSHRC 328, 329, 378–79 (May 2023), except as superseded by the Commission's decision, *Canyon Fuel Company, et al.,* 48 FMSHRC 2 (Jan. 2026).

Following the issuance of my decision, both parties filed petitions for discretionary review before the Commission. Sec'y's PDR (June 22, 2023); Resp't's PDR (June 22, 2023). The Commission granted review, and on January 30, 2026, issued its decision. 48 FMSHRC at 2. The Commission affirmed my findings for Order No. 8541892 and the Section 110(c) individual penalties against two of Respondent's employees. *Id.* at 19–20. The Commission also affirmed my finding that a violation had occurred in Order No. 8541891. *Id.* at 8. However, the Commission reversed my findings on negligence and unwarrantable failure. *Id.* at 9-11. It found the record "compel[ed] a finding of high negligence" because Respondent's mitigation efforts did not prevent a second rib failure and Respondent should have known its mitigation efforts were inadequate. *Id.* at 9. The Commission remanded this case to me for reassessment of the penalty for Order No. 8541891 consistent with the findings in this decision. *Id.* at 20.

After the Commission issued its decision, counsel for Respondent contacted my office on April 8 about the pending decision on remand. *See* Letter from R. Henry Moore, Counsel for Respondent, to this Court (Apr. 9, 2026). Counsel indicated that both parties had a preliminary discussion as to whether they "could agree on an appropriate penalty so any appeal might move forward once the decision is a final one." *Id.*

My office advised the parties that they could work together to agree on an appropriate penalty for Order No. 8541891, which I would consider in the decision on remand. Email from Alexandra Timcheck, ALJ Attorney Advisor, to Mr. Moore and Thomas A. Paige, U.S. Dep't of Labor (May 4, 2026, 3:47 PM EDT). On June 17, the parties jointly filed a Stipulation of Penalty on Remand in which they agreed that a $50,000.00 penalty would be appropriate. Stip. of Penalty on Remand at 3 (June 17, 2026).

II. DISPOSITION

The only issue before me here is the penalty for Order No. 8541891. The Secretary's regulations establish a minimum penalty amount for any order issued under Section 104(d)(1) of the Mine Act. 30 C.F.R. § 100.4(a).[3]

Commission ALJs have the authority to assess civil penalties de novo for violations of the Mine Act. 30 U.S.C. § 820(i); *Sellersburg Stone Co.*, 5 FMSHRC 287, 291 (Mar. 1983). The Mine Act requires an ALJ to consider the six statutory criteria specified in section 110(i) of the Act when assessing a penalty:

> (1) the operator's history of previous violations, (2) the appropriateness of such penalty to the size of the business of the operator charged, (3) whether the operator was negligent, (4) the effect on the operator's ability to continue in business, (5) the gravity of the violation, and (6) the demonstrated good faith of the

[3] As of September 10, 2020, the date Order No. 8541891 was issued, the minimum penalty for an order issued under Section 104(d)(1) of the Mine Act was $2,464.00. 30 C.F.R. § 100.4(a) (2020). As of the writing of this decision on remand, the minimum penalty is $3,022.00. 30 C.F.R. § 100.4(a) (2025).

> person charged in attempting to achieve rapid compliance after notification of a violation.

30 U.S.C. § 820(i) (numbering added).

In the two years prior to the issuance of Order No. 8541891, Respondent had been cited seven times for a violation of Section 75.202(a). 45 FMSHRC at 346. I also find that the Secretary has properly evaluated the size of the mine. *Id.* The parties have stipulated that payment of this penalty will not affect the Respondent's ability to continue in business. Stips. ¶ 7.[4] I also consider the gravity designations and the fact that this violation resulted in an accident where a miner suffered an injury with a reasonable potential to cause death. 45 FMSHRC at 358.

The Commission has determined that this violation was the result of high negligence and an unwarrantable failure, and thus, a higher penalty than I initially assessed is appropriate here. Respondent should have known that its mitigation efforts in the days between the August 20 and August 25 incidents were inadequate. *See* 48 FMSHRC at 9. However, I have considered that Respondent did take steps to attempt to mitigate the hazard or limit the possible severity of a rib burst here following the bounce on August 20, even if those steps were not reasonable under the circumstances. *See* 45 FMSHRC at 346. I also note that Respondent made efforts following the incident to achieve compliance and better safety. *Id.* at 347.

After considering the penalty in light of my initial findings, the Commission's decision, and the six penalty criteria, I find that a penalty of $50,000.00 is appropriate.

---

[4] I note that four years has passed since the parties entered into their Joint Stipulations. The Stipulation on Remand does not state that this circumstance has changed. I also infer from Respondent's agreeance to a $50,000.00 penalty that payment of this penalty would not affect its ability to continue in business.

III. CONCLUSION AND ORDER

As discussed above, a penalty of $50,000.00 is assessed for Order No. 8541891. Respondent is **ORDERED TO PAY** the sum of $50,000.00 within 30 days of the date of this order.[5]

Michael G. Young
Administrative Law Judge

[5] Please pay penalties electronically at Pay.Gov, a service of the U.S. Department of the Treasury, at https://www.pay.gov/public/form/start/67564508.

Distribution (by email):

Dana L. Ferguson, Acting Counsel for Trial Litigation, U.S. Department of Labor
Office of the Solicitor – MSH, 200 Constitution Ave., Suite N4428, Washington, DC 20210,
Ferguson.dana@dol.gov

R. Henry Moore, Fisher & Phillips LLP, Six PPG Place Suite 830, Pittsburgh, PA 15222,
hmoore@fisherphillips.com

Arthur M. Wolfson, Fisher & Phillips LLP, Six PPG Place Suite 830, Pittsburgh, PA 15222,
awolfson@fisheiphillips.com

Patrick W. Dennison, Fisher & Phillips LLP, Six PPG Place Suite 830, Pittsburgh, PA 15222,
pdennison@fisherphillips.com

/at