

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVENUE, NW, SUITE 520N
WASHINGTON, DC 20004-1710

May 30, 2024

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

v.

Docket Nos. LAKE 2017-0248
LAKE 2017-0224
LAKE 2018-0146
LAKE 2018-0141

NORTHSHORE MINING COMPANY,
ROGER PETERSON, employed by
NORTHSHORE MIINING COMPANY, and
MATTHEW ZIMMER, employed by
NORTHSHORE MINING COMPANY

BEFORE: Jordan, Chair; Althen, Rajkovich, Baker, and Marvit, Commissioners

DECISION

BY THE COMMISSION:

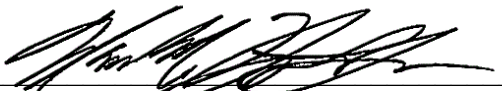
These proceedings arise under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2018) (“Mine Act” or “Act”) from Cross Petitions for Discretionary Review filed by the parties. On January 21, 2021, the Commission affirmed the Administrative Law Judge’s findings of reckless disregard and unwarrantable failure designations, affirmed the Judge’s deletion of a flagrant designation, and reversed the Judge’s findings of individual liability under section 110(c) of the Act. 30 U.S.C. § 820(c).

On August 22, 2022, the U.S. Court of Appeals for the Eighth Circuit issued a decision reversing the Commission’s decision on the issues of the flagrant designation and individual liability. The court remanded the case “for consideration of whether the penalty amount for [the flagrant violation of 30 C.F.R. 56.11002 set forth in Order No. 8897220] should be reassessed.” The Court subsequently issued its mandate on October 13, 2022.

In accordance with the court's decision, the Commission hereby remands this matter to the Office of the Chief Administrative Law Judge for consideration of whether the penalty amount for the flagrant violation of 30 C.F.R. 56.11002 set forth in Order No. 8897220 should be reassessed.


Mary Lu Jordan, Chair


William I. Althen, Commissioner


Marco M. Rajkovich, Jr., Commissioner


Timothy J. Baker, Commissioner


Moshe Z. Marvit, Commissioner

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