

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1331 PENNSYLVANIA AVE., N.W., SUITE 520N
WASHINGTON, DC 20004-1710

July 1, 2025

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

v.

NORTH AMERICAN MINING
COMPANY

Docket No. SE 2024-0059
A.C. No. 08-01058-588041

BEFORE: Jordan, Chair; Baker, and Marvit Commissioners

ORDER

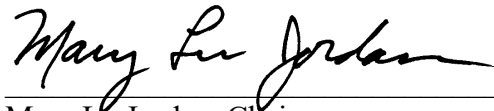
BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2024) (“Mine Act”). On December 13, 2024, the Commission received from North American Mining Company (“North American Mining”) a motion seeking to reopen a penalty assessment proceeding and relieve it from the Default Order entered against it.

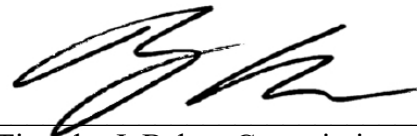
On March 11, 2024, the Chief Administrative Law Judge issued an Order to Show Cause to North American Mining by U.S. Postal Service Certified Mail. On April 10, 2024, the Order to Show Cause assessment was deemed a final order of the Commission, when it appeared that the operator had not filed an Answer within 30 days.

North American Mining asserts that it timely filed its Answer to the Order to Show Cause on March 15, 2024. The operator provides a confirmation email of receipt from the Commission’s electronic case management system (“e-CMS”) supporting its claim. The Secretary supports the request to reopen.

Having reviewed North American Mining's request and the Secretary's response, we conclude that the operator was not in default under the terms of the Order to Show Cause as it timely complied with the Order. *See Vulcan Constr. Materials*, 33 FMSHRC 2164 (Sept. 2011). This renders the Order to Show Cause and Default Order a nullity. Accordingly, the default order is vacated, and this case is remanded to the Chief Administrative Law Judge for further proceedings pursuant to the Mine Act and the Commission's Procedural Rules, 29 C.F.R. Part 2700.



Mary Lu Jordan, Chair



Timothy J. Baker, Commissioner



Moshe Z. Marvit, Commissioner

Distribution:

Christopher D. Friez, Esq.
North American Mining Company
918 E. Divide Avenue, Suite 200
Bismarck, ND 58501
christopher.friez@nacco.com

Thomas A. Paige, Esq.
Office of the Solicitor
U.S. Department of Labor
Division of Mine Safety and Health
200 Constitution Avenue NW, Suite N4428
Washington, DC 20210
Paige.Thomas.a@dol.gov

Melanie Garris
US Department of Labor/MSHA
Office of Assessments, Room N3454
200 Constitution Ave NW
Washington, DC 20210
Garris.Melanie@dol.gov

Chief Administrative Law Judge Glynn F. Voisin
Office of the Chief Administrative Law Judge
Federal Mine Safety Health Review Commission
1331 Pennsylvania Avenue, NW Suite 520N
Washington, DC 20004-1710
GVoisin@fmshrc.gov