

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-2192**

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WEST VIRGINIA CWP FUND, as carrier for Premium Energy,  
Inc.,

Petitioner,

v.

HERMAN PECK; DIRECTOR, OFFICE OF WORKERS' COMPENSATION  
PROGRAMS, UNITED STATES DEPARTMENT OF LABOR,

Respondents.

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On Petition for Review of an Order of the Benefits Review Board.  
(11-0698-BLA)

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Submitted: May 31, 2013

Decided: June 19, 2013

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Before NIEMEYER, DAVIS, and WYNN, Circuit Judges.

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Petition denied by unpublished per curiam opinion.

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Ashley M. Harman, Jeffrey R. Soukup, JACKSON KELLY PLLC,  
Morgantown, West Virginia, for Petitioner. Joseph E. Wolfe,  
Ryan C. Gilligan, WOLFE, WILLIAMS, RUTHERFORD & REYNOLDS,  
Norton, Virginia; M. Patricia Smith, Solicitor of Labor, Rae  
Ellen James, Associate Solicitor, Gary K. Stearman, Counsel for  
Appellate Litigation, Jonathan P. Rolfe, UNITED STATES  
DEPARTMENT OF LABOR, Washington, D.C., for Respondents.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

West Virginia Coal Workers' Pneumoconiosis Fund seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's award of black lung benefits pursuant to 30 U.S.C. §§ 901-945 (2006). Our review of the record discloses that the Board's decision is based upon substantial evidence and is without reversible error. Accordingly, we deny the petition for review for the reasons stated by the Board. Peck v. Premium Energy, Inc., No. 11-0698-BLA (B.R.B. July 31, 2012). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED