

UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF NORTH CAROLINA
 STATESVILLE DIVISION

THOMAS E. PEREZ,
 Secretary of Labor,
 United States Department of Labor,

 Plaintiff,

 v.

 DANNY J. CECILE,
 RADFORD QUARRIES OF BOONE,
 RAYMOND S. CECILE, and
 D. J. ("JACOB") CECILE,

 Defendants.

Civil Action No.
 5:14-cv-00080-RLV-DSC

FILED
CHARLOTTE, NC
NOV 25 2014
U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

CONSENT JUDGMENT and ORDER

Plaintiff, Secretary of Labor, United States Department of Labor, pursuant to his authority under §§ 818(a)(1)(A) and 818(b), has filed a Complaint against Defendants Radford Quarries of Boone, Danny J. Cecile, Raymond S. Cecile, and D.J. ("Jacob") Cecile ("Defendants"). Defendants and the Secretary have agreed to resolve all matters in controversy in this action and said parties do now consent to entry of a Judgment and Order by this Court in accordance herewith.

A. The Secretary's Complaint alleges that Defendants repeatedly refused to comply with citations and orders issued by the Mine Safety and Health Administration ("MSHA") under § 103 of the Mine Act, 30 U.S.C. § 813 and that Defendants' repeated

failure and refusal to comply with the citations and orders constitutes a continuing hazard to the health and safety to those who work in and about the Glendale Springs mine.

B. Defendants hereby admit to the jurisdiction of the Court over them and over the subject matter of this action. Defendants admit that this Court has the authority to enforce this Order and that this Court is the most appropriate venue for any enforcement action which may be required as a result of this Order.

1. Defendants neither admit nor deny the allegations in the Complaint.

2. Defendants expressly waive any and all claims of whatsoever nature that they have or may have against the Secretary, or any of his officers, agents, employees, or representatives, arising out of or in connection with the filing, prosecution, and maintenance of this civil action or any other proceeding and investigation incident thereto.

3. This Order represents a complete settlement of all the Secretary's claims asserted in this action against Defendants.

C. The Secretary and Defendants expressly waive Findings of Fact and Conclusions of Law, except as otherwise set forth and addressed herein, and consent to the entry of this Order as a full and complete resolution of all claims and issues which were, or might have been, alleged in this action without trial or adjudications of any issue of fact or law raised in the Complaint.

Upon consideration of the parties' joint motion for entry of agreed order in the case above, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The Court has jurisdiction over the parties to this Order and the subject matter of this action and is empowered to provide the relief herein.

2. Pursuant to 30 U.S.C. § 818(a)(1)(A), 30 U.S.C. § 818(b), and Rule 65 of the Federal Rules of Civil Procedure, the Defendants Radford Quarries of Boone, Inc., Danny J. Cecile, Raymond S. Cecile and D.J. ("Jacob") Cecile, their agents, servants, employees, all persons in active concert or participation with them, and all other persons who receive actual notice of this order by personal service or otherwise, are enjoined from violating or failing or refusing to comply with the provisions of §§ 103, 104 and 108 of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801, et seq. (the "Act").

3. Pursuant to 30 U.S.C. § 818(b), Defendants shall train its employees and contractors regarding mining methods that will maintain wall, bank and slope stability in places where miners work or travel in performing their assigned tasks under 30 C.F.R. § 56.3130 and provide proof of training to MSHA within 90 days from the date this Order is entered.

4. A copy of this Order shall be posted in the break room at the Mine.

5. The claims against Defendants Radford Quarries of Boone, Inc., Danny J. Cecile, Raymond S. Cecile and D.J. ("Jacob") Cecile in this matter are dismissed. The individual defendants shall bear any fees or expenses incurred in defending this action.

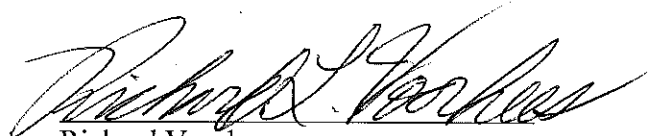
6. The terms of this Order shall terminate three years after the entry of the Order. Defendants are not relieved of any statutory obligation against complying with all orders under the act after the three-year term of this injunction has expired.

7. This Consent Judgment resolves all claims of Plaintiff's Complaint with the following exceptions:

a. This Judgment does not affect or bind any governmental agency other than the United States Department of Labor.

b. This Court retains jurisdiction for purposes of enforcing compliance with the terms of this Consent Order and Judgment.

Entered this 7th day of November, 2014.



Richard Voorhees
United States District Judge

Approved for entry:

M. PATRICIA SMITH
Solicitor of Labor

STANLEY E. KEEN
Regional Solicitor

TREMELLE HOWARD-FISHBURNE
Counsel

s/ Brooke Werner McEckron
BROOKE WERNER MCECKRON
Attorney

s/ Randal Marsh
Randal Marsh, Authorized Agent,
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