

United States of America

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

1120 20th Street, N.W., Ninth Floor Washington, DC 20036-3457

SECRETARY OF LABOR,

Complainant,

V.

OSHRC Docket No. 03-1499

PENNSYLVANIA AMERICAN WATER,

Respondent.

DIRECTION FOR REVIEW AND REMAND ORDER

On June 27, 2003, following an inspection of Respondent's worksite in Wilkes-Barre, Pennsylvania, the Occupational Safety and Health Administration issued to Respondent one citation with a single item and proposed a penalty of \$1300. Respondent filed a timely notice of contest, and the case was assigned to Administrative Law Judge Covette Rooney. On January 21, 2004, the Secretary submitted to the judge "Complainant's Notice of Withdrawal of Citation," in which the Secretary states that she withdraws the citation, and that Respondent agrees to take specified actions. The judge subsequently issued her order stating that the citation item and proposed penalty are withdrawn in accordance with the Complainant's Notice of Withdrawal. The judge's order was docketed by the Commission on February 10, 2004.

On March 1, 2004, Respondent filed a Petition for Discretionary Review of the judge's order, asserting that it had not agreed to take the actions specified in the Notice of Withdrawal. The parties have now filed a "Joint Stipulation for

Remand" requesting the Commission to remand the case to the judge so that they can agree to the actions Respondent will take upon withdrawal of the citation item.

Accordingly, we direct the case for review, set aside the judge's order, and remand this case to the judge.

SO ORDERED.

/s/ W. Scott Railton Chairman

/s/ James M. Stephens Commissioner

/s/ Thomasina V. Rogers Commissioner

Dated: March 9, 2004