



BRB No. 19-0122 BLA
Case No. 2017-BLA-05196

CHERI LYNN WEBB (Executrix of the Estate)
of WILLIAM E. VINCENT))

Claimant-Respondent)

v.)

PEABODY COAL COMPANY)

DATE ISSUED: 01/12/2021

and)

PEABODY ENERGY CORPORATION)

Employer/Carrier-)
Petitioners)

DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS, UNITED)
STATES DEPARTMENT OF LABOR)

Party-in-Interest)

ORDER on MOTION for
RECONSIDERATION

BOGGS, Chief Administrative Appeals Judge:

Employer has filed a timely motion for reconsideration of the Benefits Review Board's Decision and Order in this case, *Webb v. Peabody Coal Co.*, BRB No 19-0122 BLA (May 29, 2020) (unpub.) (Rolfe, J., concurring). 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407(a). The Director, Office of Workers' Compensation Programs, responds, urging denial of Employer's motion.

We deny the motion as Employer has not demonstrated error in the Board's holding that it did not timely raise an Appointments Clause challenge as to the district director.

Webb, slip op. at 3-4. Accordingly, we affirm the Board’s decision. 20 C.F.R. §§801.301(c), 802.409.

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals Judge

I concur:

GREG J. BUZZARD
Administrative Appeals Judge

ROLFE, Administrative Appeals Judge, concurring:

I would grant Employer’s motion for reconsideration but deny it relief on the additional ground that *Lucia v. SEC*, 585 U.S. ___, 138 S.Ct. 2044 (2018) does not establish district directors are “inferior officers” to whom the Appointments Clause applies, as stated in my concurring opinion in this case. *Webb*, slip op. at 18-24.

JONATHAN ROLFE
Administrative Appeals Judge