



BRB No. 17-0061 BLA  
Case No. 2011-BLA-06277

ROBERT C. GILLENWATER	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
RANGER FUEL CORPORATION	)	DATE ISSUED: 08/06/2018
	)	
Employer-Petitioner	)	
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	ORDER

On June 8, 2018, the Board summarily denied employer’s motion for reconsideration of the Board’s decision in *Gillenwater v. Ranger Fuel Corp.*, BRB No. 17-0061 BLA (Nov. 29, 2017) (unpub.), in which the Board affirmed in part and vacated in part the administrative law judge’s Decision and Order awarding benefits, and remanded the case to the administrative law judge for further consideration. *Gillenwater v. Ranger Fuel Corp.*, BRB No. 17-0061 BLA (June 8, 2018) (Order) (unpub.) In the same Order, the Board ordered the parties to show cause within ten (10) days of receipt of the Board’s Order why the administrative law judge should not be instructed to reconsider all of the substantive and procedural actions previously taken when issuing a decision on the merits on remand.

The Director, Office of Workers’ Compensation Programs, responds that she does not object to the case being remanded with such an instruction. Employer responds that the case should be reconsidered on remand by a constitutionally appointed administrative law judge. Claimant responds requesting timely resolution of this claim.

Upon consideration of the positions of the parties, and in light of the recent decision of the United States Supreme Court in *Lucia v. SEC*, 585 U.S. , 2018 WL 3057893 (June 21, 2018), we agree that under these circumstances the proper course of action is to remand this case to the Office of Administrative Law Judges (OALJ) for further action. 20 C.F.R. §802.405(a). Any party adversely affected by the decision of the OALJ may file a new appeal with the Board within thirty (30) days of the date that the decision is filed with the district director. 20 C.F.R. §802.205.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

JUDITH S. BOGGS  
Administrative Appeals Judge

JONATHAN ROLFE  
Administrative Appeals Judge