

CCASE:
WYOMING FUEL V. MSHA
DDATE:
19900313
TTEXT:

FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
DENVER, COLORADO
March 13, 1990

WYOMING FUEL COMPANY,
Contestant

CONTEST PROCEEDINGS

v.

Docket No. WEST 90-112-R
Order No. 2930784; 2/13/90

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)

Docket No. WEST 90-113-R
Citation No. 2930785; 2/13/90

Respondent

Docket No. WEST 90-114-R
Order No. 3241331; 2/16/99

Docket No. WEST 90-115-R
Citation No. 3241332; 2/16/90

Docket No. WEST 90-116-R
Citation No. 3241333; 2/16/90

Golden Eagle Mine
MSHA Mine ID No. 05-02820

ORDER

The Secretary has requested pursuant to Rule 74, 29 C.F.R. 2700.74, that the Judge certify his ruling of March 2, 1990 to the Commission.

The Secretary restates her previous position.

Discussion

The Secretary's request for certification is denied. As previously stated, the judge believes an expedited hearing is mandated when an order is issued under section 107.

In an unrelated case, Medicine Bow Coal Company, Docket Nos. WEST 90-117-R and WEST 90-123-R, the judge concluded an expedited hearing was not mandated for a section 104(d) order unless the operator met certain criteria. A copy of the order in Medicine Bow is attached.

The judge believes the statute is clear. Further, Commission Rule 52, 29 C.F.R. 2700.52 does not address the issue.

Accordingly, the Secretary's motion is denied.

John J. Morris
Administrative Law Judge