

CCASE:  
THUNDER BASIN COAL V. SOL (MSHA)  
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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR  
WASHINGTON, D.C. 20006

THUNDER BASIN COAL COMPANY :  
 :  
 v. : Docket No. WEST 94-238-R  
 :  
 SECRETARY OF LABOR, MINE SAFETY :  
 AND HEALTH ADMINISTRATION (MSHA) :  
 :  
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ORDER

Upon consideration of the petitions for discretionary review, we vacate the judge's decision and remand this matter to him for appropriate proceedings. We note in particular the Secretary of Labor's assertions that he has been "deprived of an opportunity to present his legal position to the judge," (PDR at 1) and that certain material factual findings are not supported by substantial evidence. We intimate no view regarding the judge's legal conclusions in this matter.

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

Arlene Holen, Commissioner