

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

333 W. COLFAX AVENUE, SUITE 400
DENVER, COLORADO 80204

AUG '7 1986

UTAH POWER & LIGHT, : CONTEST PROCEEDING
substituted for :
EMERY MINING CORPORATION, : Docket No. WEST 86-131-R
Contestant : Order No. 2833458; 4/22/86
: :
v. : Wilberg Mine
: :
SECRETARY OF LABOR, :
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), :
Respondent :
and :
UNITED MINE WORKERS OF AMERICA, :
Intervenor :

DECISION

Appearances: John Macleod, Esq., Crowell & Moring, Washington,
D.C.,
for Contestant;
Edward H. Fitch, Esq., Office of the Solicitor,
U.S. Department of Labor, Arlington, Virginia,
for Respondent;
Mary Lu Jordan, Esq., United Mine Workers of
America, Washington, D.C.,
Intervenor.

Before: Judge Morris

This case, heard under the provisions of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq., (the Act) arose from an inspection of contestant's Wilberg mine on April 22, 1986. On that date a federal mine inspector issued Order No. 2833458 under § 104 of the Act.

A hearing on the merits commenced in Denver, Colorado on May 14, 1986.

Stipulation

The parties agreed that the ruling in WEST 86-126-R would be controlling in this case (Tr. 18-20).

Conclusions of Law

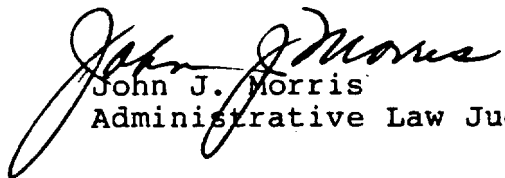
Based on the record and the stipulation of the parties, the following conclusions of law are entered:

1. The Commission has jurisdiction to decide this case.
2. On this date an order was entered dismissing the contest in WEST 85-126-R.
3. The contest of MSHA Order No. 2833458 herein should be dismissed.

ORDER

Based on the stipulation of the parties and the conclusions of law I enter the following order:

The contest of Order No. 2833458 is dismissed.


John J. Morris
Administrative Law Judge

Distribution:

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