

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 86-140-R  
Contestant : Order No. 2833456; 4/17/86  
: :  
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 17, 1986. On that date a federal mine inspector issued Order No. 2833456 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

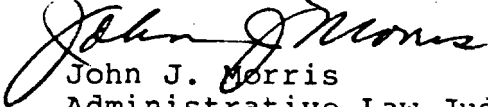
Based on the record and the stipulation of the parties, the following conclusions of law are entered:

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. 2833456 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. 2833456 is dismissed.

  
John J. Morris  
Administrative Law Judge

Distribution:

John Macleod, Esq., Crowell & Moring, 1100 Connecticut Avenue, NW, Washington, D.C. 20036 (Certified Mail)

Edward Fitch, Esq., Office of the Solicitor, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, VA 22203 (Certified Mail)

Mary Lu Jordan, Esq., United Workers of America, 900 Fifteenth Street, NW, Washington, D.C. 20005 (Certified Mail)

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