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SOL (MSHA) V. SANGER ROCK & SAND  
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)  
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No. WEST 88-275-M  
A.C. No. 04-01937-05505

v.

Docket No. WEST 89-71-M  
A.C. No. 04-01937-05506

SANGER ROCK & SAND,  
RESPONDENT

Sanger Pit and Mill

ORDER

At the close of the evidence in the above cases on December 13, 1989, respondent requested leave to file inter-rogatories.

Petitioner objected to respondent's request.

Discussion

Commission Rule 55, 29 C.F.R. 2700.55 encompasses discovery in general and Rule 56, 29 C.F.R. 2700.55 addresses the use of interrogatories. These rules indicate discovery is to be initiated early in the proceedings. In fact, Rule 55 states discovery shall be initiated within 20 days after a notice of contest. Further, discovery is to be completed within 60 days after a notice of contest. For good cause shown, the judge may permit the time for discovery to be extended. However, the purpose of interrogatories is to assist a party to prepare and present its case at the evidentiary hearing.

In the instant case respondent requested leave to file interrogatories after the evidentiary hearing had been closed.

It is apparent respondent's motion for leave to file inter-rogatories addressed to the Secretary was not timely filed and it is denied.

John J. Morris  
Administrative Law Judge