

CCASE:
WYOMING FUEL V. SOL (MSHA)
DDATE:
19900313
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

WYOMING FUEL COMPANY,
CONTESTANT

v.

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

CONTEST PROCEEDINGS

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

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

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

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