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SOL (MSHA) V. CANYON COUNTRY ENTERPRISES
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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),
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. WEST 90-165-DM
MD 89-24

v.

Soledad Canyon Mine

CANYON COUNTRY ENTERPRISES,
D/B/A CURTIS SAND & GRAVEL,
CORPORATION,
RESPONDENT

ORDER DIRECTING RESPONDENT TO FULLY ANSWER DISCOVERY REQUESTS

On or about June 12, 1990, Complainant served on Respondent certain Interrogatories and a Request for Production of Documents.

On July 9, 1990, Complainant filed its Motion for Order Compelling Responses To Discovery Requests, attaching Respondent's answers thereto, pointing out accurately that Respondent "has provided no information whatsoever in response to those requests, opting instead to object on general and spurious grounds."

Respondent's counsel may not be familiar with Commission practice which is traditionally liberal on these matters. As to the request for production of documents, Respondent, in its "General Objections," misconstrued the provisions of Commission procedural Rule 57 (2900 C.F.R. 2700.57).¹ Respondent also complains that the Complainant's discovery request was 9 days over the 60-day period provided in Rule 55. Complainant has shown that Respondent's answer to its Complaint was not received by it until approximately one month after it was due. Whether or not this delay was attributable to any tardiness on Respondent's part, it constitutes good cause for Complainant's very nominal delay in initiating discovery and, accordingly, pursuant to the authority provided in Rule 55, discovery time is extended - to be completed by September 28, 1990.

Respondent has also raised various "Special Objections" to the requests for document production and interrogatories, for the most part, that such are "overbroad," "burdensome," protected by the attorney-client privilege, and irrelevant. I have studied both the requests and objections, and find such objections are either the result of a misunderstanding of the issues in a mine safety discrimination case, or are simply contentious. Such objections are couched in broad language. The information sought by Complainant is clearly within the scope of that permitted by Procedural Rule 55(c) which provides:

(c) Scope of discovery. Parties may obtain discovery of any relevant matter, not privileged, that is admissible evidence or appears reasonably calculated to lead to the discovery of admissible evidence.

Accordingly, all such objections are denied and Respondent is directed to fully, and in good faith, answer such on or before August 17, 1990. Counsel are requested to attempt to cooperate in discovery and procedural matters so that this matter can be brought to focus on major issues. Counsel are also requested to further explore the amicable resolution of this matter.

The presence of legal counsel in an administrative proceeding--and before this Commission--will be expected to bring with it a higher degree of professionalism and responsibility to the tribunal and its purpose. Pro forma objections and obstructions are not encouraged or countenanced.

The attention of counsel to Commission Procedural Rule 63 (2700 C.F.R. 63) is invited.

Michael A. Lasher Jr.
Administrative Law Judge

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FOOTNOTES START HERE

1. I find no "good cause" for excusing Respondent from answering the discovery requests of Complainant. There is no claim of prejudice from Respondent from the delay and I would certainly infer none from the short period involved.