

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
601 New Jersey Avenue, N.W., Suite 9500  
Washington, D.C. 20001  
August 21, 2006

MARTIN COUNTY COAL CORP., : CONTEST PROCEEDING  
Contestant :  
v. : Docket No. KENT 2006-416-R  
: Citation No. 7433765; 06/20/2006  
:  
SECRETARY OF LABOR, :  
MINE SAFETY AND HEALTH :  
ADMINISTRATION, MSHA, : White Cabin #7  
Respondent : Mine ID 15-18452

**NOTICE OF HEARING**  
**AND**  
**PREHEARING ORDER**

\_\_\_\_\_ This contest proceeding is before me based on a Notice of Contest of the subject citation filed with the Commission on July 21, 2006, pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977, as amended, (the Mine Act), 30 C.F.R. § 815(d). On August 14, 2006, the Secretary moved to stay this matter pending consolidation with the yet to be docketed civil penalty case. The contestant has not agreed to stay this matter. The Secretary's motion **IS DENIED**.

In accordance section 105(d) of the Mine Act, this proceeding is scheduled for hearing on the merits on **Wednesday, October 4, 2006, at 9:00 a.m.**, in the vicinity of **Huntington, West Virginia**.<sup>1</sup> The specific courtroom in which the hearing will be held will be designated at a later date. The matters of fact and law asserted are as stated in the pleadings.

In preparation for the hearing, the parties are directed to complete the following on or before **September 26, 2006**: (a) confer on the possibility of settlement and endeavor to stipulate as to all relevant matters which are not in substantial dispute; (b) endeavor to stipulate to the issues of fact and law remaining for hearing, and, if unable to do so, exchange written agreements as to the issues as contended by the respective parties; (c) exchange lists of exhibits, and, at the request of a party, produce exhibits for inspection and copying; (d) stipulate to those exhibits which may be admitted into evidence without objection and as to others indicate whether the exhibit is accepted as an authentic document; and (e) exchange witness lists with a synopsis of the testimony expected of each witness.

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<sup>1</sup>Any person planning on attending this hearing who requires special accessibility features and/or any auxiliary aids (such as sign language interpreters) must request those in advance [subject to the limitations set forth in 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d)].

If the proceeding has not been settled, the parties are further directed to file with the undersigned Administrative Law Judge on or before **September 26, 2006**, a written prehearing report setting forth (a) lists of exhibits and witnesses together with the parties' synopsis of expected testimony (b) any stipulations entered into; (c) the parties' statement of the issues; and (d) a memorandum of law on any legal issue raised by a party with citation to the principal authorities relied upon. Failure to comply with any part of the prehearing order may result in sanctions against the defaulting party.

Jerold Feldman  
Administrative Law Judge  
202-434-9967

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