

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

October 31, 2006

AUSTIN POWDER COMPANY,	:	CONTEST PROCEEDING
Contestant	:	
	:	
v.	:	Docket No. SE 2006-328-RM
	:	Citation No. 7784642; 09/07/2006
	:	
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Rock Hill
Respondent	:	Mine ID 38-00026 E24

ORDER TO CONFER ON HEARING DATE

This proceeding is before me based on a Notice of Contest of Citation No. 7784642, designated as non-significant and substantial, filed with the Commission on September 27, 2006, pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977, as amended, (Mine Act), 30 C.F.R. § 815(d). In its contest, Austin Powder Company (Austin) “. . . requests that a hearing on the merits [for the purpose of vacating the citation] be held at a date, place, and time to be mutually agreed upon by the parties.” (*Austin Contest*, p.2).

Accordingly, **IT IS ORDERED** that the parties confer for the purpose of agreeing on a suitable hearing date within the next six weeks, as well as a suitable hearing location. The parties should advise me, **in writing**, within fifteen (15) days of this Order of the mutually satisfactory hearing date and location. **IT IS FURTHER ORDERED** that if the parties do not agree on a hearing date in furtherance of the prosecution of Austin’s contest, Austin should state, **in writing**, within fifteen (15) days of the date of this Order, why its contest should not be dismissed. If it is the Secretary who is unwilling to agree to a timely hearing, the Secretary should state, **in writing**, within fifteen (15) days, why Austin’s contest should not be granted.

Jerold Feldman
Administrative Law Judge
(202) 434-9967

Distribution: (Certified Mail)

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