

CCASE:
MSHA V. UNION ROCK & MATERIALS
DDATE:
19800414
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
WASHINGTON, DC
April 14, 1980

SECRETARY OF LABOR,
MINE SAFETY and HEALTH
ADMINISTRATION (MSHA), Docket No. DENV 78-579-PM

v.
UNION ROCK AND MATERIALS
CORPORATION

ORDER

The petition for discretionary review is dismissed. Section 113(d)(2)(A)(i) requires that a petition for discretionary review be filed and served within 30 days after the issuance of the judge's decision. 1/ Commission Rule 5(d), 29 CFR 2700.5(d) (1979), states that "filing of a petition for discretionary review is effective only upon receipt." The petition for discretionary review was received by the Commission on April 7, 1980, more than thirty days after the issuance of the judge's decision.

Accordingly, the petition is dismissed as untimely filed. 2/

1/ 30 U.S.C. 823(d)(2)(A)(i) (Supp. II 1978).

2/ See Sunbeam Coal Corporation, Docket No. PITT 79-210 through 79-214, (order dated March 10, 1980).

~783

Distribution

Gary W. Houston, Esq.
Union Rock and Materials Corporation
1000 Kiewit Plaza
Omaha, Nebraska 68131

Malcolm R. Trifon, Esq.
Office of the Solicitor
U.S. Department of Labor
11071 Federal Building
450 Golden Gate Avenue
San Francisco, California 94102

Honorable William Fauver
Administrative Law Judge
2 Skyline, 10th Floor
5203 Leesburg Pike
Falls Church, Virginia 22041