

FEDERAL MINE SAFETY AND HEALTH **REVIEW** COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

December 21, 1984

LONNIE JONES

v.

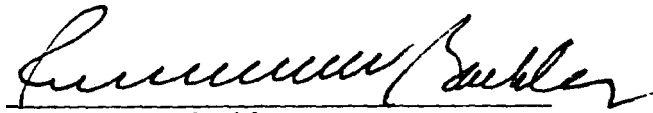
D&R CONTRACTORS

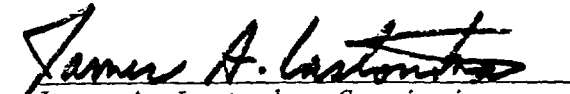
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Docket No. KENT 83-257-D(A)

ORDER

On November 21, 1984, the Commission granted the timely petition for discretionary review filed by respondent D&R Contractors. On December 5, 1984, counsel for complainant Lonnie Jones filed a motion to reconsider and vacate the Commission's direction for review. As the basis for this motion, counsel requests the Commission to consider complainant's previously filed **opposition to** D&R's petition. We will treat complainant's opposition as a memorandum in support of his present motion for reconsideration. 1/ Upon consideration of the motion for reconsideration, **complainant's** request for vacation of the direction for review is denied.


Richard V. Backley, Acting Chairman


James A. Lastowka, Commissioner


L. Clair Nelson, Commissioner

1/ Commission Procedural Rule 70(e), 29 C.F.R. § 2700.70(e), permits the filing of oppositions to petitions for discretionary review, but states that "such filing shall in no way delay Commission action on the petition." Thus, the Commission may grant a petition, as it did here, without awaiting the possible submission of an opposition. Oppositions to petitions must also be filed within 40 days from the date of the administrative law judge's decision concerning which review has been timely sought. 30 U.S.C. § 823(d)(1); Commission Procedural Rule 70(g), 29 C.F.R. § 2700.70(g). We note that in this case, complainant's opposition was received by the Commission on November 28, 1984, one day past the 40-day time limit from the judge's decision below.