

CCASE:
MSHA (VACHA, PRICE) V. JIM WALTER RESOURCES
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August 17, 1987

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA), on
behalf of MICHAEL L. PRICE
and JOE JOHN VACHA

v. Docket No. SE 87-87-D

JIM WALTER RESOURCES, INC.

BEFORE: Ford, Chairman; Backley, Doyle, Lastowka, and Nelson
Commissioners

ORDER

BY: THE COMMISSION

Respondent Jim Walter Resources, Inc. ("JWR") has moved the Commission for a stay of the Commission's August 3, 1987 order in this proceeding pending disposition of JWR's petition for review of that order in the United States Court of Appeals for the Eleventh Circuit. The Commission's order affirmed Commission Administrative Law Judge James A. Broderick's order of temporary reinstatement of complainants Price and Vacha. 30 U.S.C. § 815(c)(2); 29 C.F.R. § 2700.44. The Secretary of Labor has filed an opposition to JWR's motion.

Upon consideration of JWR's motion and the Secretary's opposition, the motion is denied. JWR argues only that the order of temporary rein. statement in this case poses substantial issues of law and policy. However, JWR has failed to make a showing of any of the factors ordinarily justifying stay of an agency order pending judicial review. E.g., Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958).

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Accordingly, JWR's motion for a stay of the Commission's temporary reinstatement order is denied.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

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