

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

February 19, 1992

IN RE: CONTESTS OF RESPIRABLE DUST :
SAMPLE ALTERATION CITATIONS : MASTER DOCKET NO. 91-1
:
:
:

ORDER

On November 13, 1991, the Commission granted petitions filed by the Secretary of Labor and the contestants represented by the law firm of Jackson & Kelly, for interlocutory review of orders entered by Commission Administrative Law Judge James A. Broderick in these proceedings. Petitioners have filed their briefs and response briefs. On January 9, 1992, contestants Great Western Coal (Kentucky) Inc., Great Western Coal, Inc., and Harlan Fuel Company filed a motion to join in the briefs filed by Jackson & Kelly. These contestants did not join in Jackson & Kelly's petition for interlocutory review and have not previously sought to participate in this interlocutory proceeding.

These contestants do not attempt to explain in their motion why they waited until all briefs were filed to seek to participate in this interlocutory review proceeding. They have been aware of this appeal since it was filed and could reasonably have sought to participate on a more timely basis. Parties who wish to participate in appeals to this Commission **must do so** promptly after review has been granted. See In re: Contests of Respirable Dust Sample Citations, 14 FMSHRC, _____ No. 91-1 (January 14, 1992); see generally Mid-Continent Resources, Inc., 12 FMSHRC 2399, 2404-05 (December 1989).

Accordingly, the above-referenced motion to join in the briefs filed by Jackson & Kelly is denied.

For the Commission:



Ford B. Ford
Chairman