

CCASE:  
SOL (MSHA) V. TANGLEWOOD ENERGY  
DDATE:  
19940110  
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION  
1730 K Street NW, 6th Floor  
Washington, D.C. 20006

January 10, 1994

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	
on behalf of PERRY PODDEY	:	
	:	
v.	:	Docket No. WEVA 93-339-D
	:	
TANGLEWOOD ENERGY, INC.,	:	
	:	

ORDER

On December 29, 1993, the Secretary of Labor ("Secretary"), filed a petition with the Federal Mine Safety and Health Review Commission under Section 113(d)(2) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 823(d)(2)(1988). The Administrative Law Judge presiding in this discrimination proceeding has not yet issued his final order on damages. The Commission has dismissed as premature petitions seeking review of a judge's decision finding liability in discrimination cases before the decision on damages is issued. See *Kenneth A. Wiggins v. Eastern Associated Coal Co.*, 5 FMSHRC 1668 (October 1983). The Secretary's petition is premature and is dismissed without prejudice. The Secretary may file a petition for discretionary review after issuance of the judge's decision on damages.

\_\_\_\_\_  
Arlene Holen, Chairman

\_\_\_\_\_  
Richard V. Backley, Commissioner

\_\_\_\_\_  
Joyce A. Doyle, Commissioner

\_\_\_\_\_  
L. Clair Nelson, Commissioner