

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

1331 PENNSYLVANIA AVENUE, NW, SUITE 520N  
WASHINGTON, DC 20004-1710

**December 14, 2023**

SECRETARY OF LABOR	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	
v.	:	Docket No. WEST 2022-0097
	:	
GENEVA ROCK PRODUCTS, INC.	:	

BEFORE: Jordan, Chair; Althen, Rajkovich, and Baker, Commissioners

**ORDER**

BY: Jordan, Chair; Althen and Baker, Commissioners

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2018). Alleged violations at issue in this proceeding were referred to the Department of Justice (“DOJ”) for potential indictments under section 110(c) and 110(d) of the Mine Act, 30 U.S.C. §§ 820(c), (d). On July 17, 2023, a Commission Administrative Law Judge issued an order staying the instant proceeding pending the completion of the DOJ’s criminal investigation and any subsequent proceedings. On October 4, the Commission received the Secretary of Labor’s petition for interlocutory review.

Commission Procedural Rule 76(a) provides that interlocutory review is a matter of sound discretion of the Commission, and that the Commission may grant interlocutory review upon a determination that the Judge’s interlocutory ruling involves a controlling question of law and immediate review will materially advance the final disposition of the proceeding. 29 C.F.R. § 2700.76(a).

Upon consideration of the Secretary’s petition, we hereby grant interlocutory review of the Judge’s order of July 17, 2023. The issue on interlocutory review is whether the Judge abused his discretion when he ordered a stay of the case for an indefinite duration.

The Secretary shall file an opening brief with the Commission within 30 days of this order, and remaining briefs shall be filed in accordance with Commission Procedural Rule 75, 29 C.F.R. § 2700.75.

  
Mary Lu Jordan, Chair

  
William I. Althen, Commissioner

  
Timothy J. Baker, Commissioner

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