

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

December 29, 2023

SECRETARY OF LABOR :
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA) :
 :
v. : Docket No. CENT 2023-0120
 :
MORTON SALT, INC. :

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


ORDER

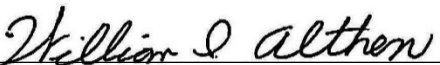
BY THE COMMISSION:

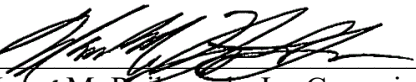
This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2018). On December 18, 2023, a Commission Administrative Law Judge issued an order granting the Secretary’s motion for certification for interlocutory review and denying her motion to cancel the hearing scheduled for January 9-11, 2024.

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 by the Commission, the Judge's December 18, 2023, certification for interlocutory review is accepted. The Commission hereby grants interlocutory review of the following issue: whether the Commission has authority to review the Secretary's decision to issue a notice of pattern of violations. The hearing scheduled for January 9-11, 2024, is hereby suspended pending further order by the Commission. Both parties shall file opening briefs with the Commission within 20 days of the date of this order, and response briefs shall be filed within 10 days after service of the opening briefs.


Mary Lu Jordan, Chair


William I. Althen, Commissioner


Marco M. Rajkovich, Jr., Commissioner


Timothy J. Baker, Commissioner

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