FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

May 9, 2000

GARY D. MORGAN

:

Docket No. LAKE 98-17-D

V.

:

ARCH OF ILLINOIS :

<u>ORDER</u>

On April 21, 2000, the Commission received a Motion to Reconsider Previous Petition for Discretionary Review and Motion to Have Test Results Scientifically Analyzed from the complainant, Gary D. Morgan. Under Commission Procedural Rule 78, 29 C.F.R. § 2700.78, a motion for reconsideration must be filed within 10 days after a decision or order by the Commission. The Commission denied Morgan's petition for discretionary review on March 24, 2000. Accordingly, Morgan's motion for reconsideration is untimely under the Commission's rules.

Moreover, having examined the arguments raised by Morgan's motion, we would deny the request for reconsideration in any event. In his motion, Morgan has not raised any new arguments concerning the judge's decisions that the Commission has not already considered. Further, Morgan's motion to have his test results scientifically analyzed is essentially a request to reopen the record, which would be inappropriate at this stage of these proceedings.

For the foregoing reasons, the Pacientifically Analyzed are denied.	Motion to Reconsider and the Motion to Have Test R
	Mary Lu Jordan, Chairman
	James C. Riley, Commissioner
	Theodore F. Verheggen, Commissione
	Robert H. Beatty, Jr., Commissioner

¹ Commissioner Marks would grant the relief requested in the motions.

Distribution

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