

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

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

March 14, 1996

SECRETARY OF LABOR, on behalf	:	
RAMON S. FRANCO	:	
Complainant	:	
	:	
v.	:	Docket No. WEST 96-120-M
	:	
W.A. MORRIS SAND AND	:	
GRAVEL, INC.,	:	
Respondent	:	

DIRECTION FOR REVIEW  
DENIAL OF REVIEW AND  
DENIAL OF STAY OF TEMPORARY REINSTATEMENT

On February 26, 1996, respondent W.A. Morris Sand and Gravel ("Morris") filed a petition for discretionary review of the February 15, 1996, orders of Administrative Law Judge Richard W. Manning granting the Secretary's application for temporary reinstatement and denying Morris' motions to dismiss. Morris also has requested a stay of the temporary reinstatement order.

Upon consideration of Morris' petition and request, the Secretary's response in opposition and respondent's reply, the petition for review is granted as to the issue of jurisdiction, i.e. whether the complainant is a miner. In all other respects the petition is denied.

Respondent's request for a stay of the temporary reinstatement order fails to demonstrate compelling or extraordinary circumstances, and is therefore denied. *See Perry Transport, Inc.*, 15 FMSHRC 196, 198 (February 1993).

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Mary Lu Jordan, Chairman

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Joyce A. Doyle, Commissioner

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Arlene Holen, Commissioner

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Marc Lincoln Marks, Commissioner

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James C. Riley, Commissioner