

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

JAN 26 2006

U.S. DISTRICT COURT
ELKINS WV 26241

ELAINE L. CHAO,)
SECRETARY OF LABOR,)
U.S. DEPARTMENT OF LABOR)
Plaintiff)

Civil Action No. 2:06CV8

and)

UNITED MINE WORKERS OF)
AMERICA)
Intervenor)

v.)

WOLF RUN MINING)
COMPANY, INC.,)
Defendant)

ORDER

On the 26th day of January, 2006, came the plaintiff, Elaine L. Chao, Secretary of Labor, U. S. Department of Labor, by Timothy S. Williams, Office of the Solicitor, and came the United States Attorneys Office for the Northern District of West Virginia, and Thomas E. Johnston, United States Attorney, by Stephen D. Warner, Assistant United States Attorney, and came the defendant, Wolf Run Mining Company Inc., by Albert F. Sebok, and came the United Mine Workers of America, by Robert J. Smith, Esquire. This Court received an application by the Secretary of

Labor (Secretary) to the Court for the issuance of a Temporary Restraining Order or Preliminary Injunction pursuant to Fed. R. Civ. P. 65(b), pending a trial on the merits of this case. The Defendant was provided pre-filing notice of this application. In her filing, the Secretary alleges that Defendant has refused to comply with her request to permit the United Mine Workers of America, as a designated representative of miners, to accompany authorized representatives of the Secretary on physical inspections and investigations of Defendant's Sago Mine. This Court is of the opinion, and so finds, that irreparable harm to the Secretary would result from its failure to issue a preliminary injunction and that the threatened irreparable harm outweighs any injury the Defendant may suffer. This Court further finds that the Secretary has established a substantial likelihood that she will succeed on the merits of this case. Also, this Court finds that the injunctive relief sought is in the public interest. No security is required because the plaintiff is an agency of the United States government.

WHEREFORE, it is ORDERED that the Defendant, its officers, agents and employees are hereby enjoined until further notice or Order of this Court from refusing to permit the UMWA, as a representative of miners pursuant to 30 U.S.C. § 813(f), to accompany representatives of the Secretary of Labor on any physical inspection or investigation of the Sago Mine and to

participate in pre- and post-investigation conferences at the mine site, when so requested by an authorized representative of the Secretary of Labor.

Upon consideration of all matters presented to the Court in this matter, the ultimate determination of this Court is that this Order shall be considered a preliminary injunction.

SO ORDERED, this 26th day of January, 2006.



Robert E. Maxwell
United States District Judge