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MINING ENFORCEMENT AND SAFETY ADMINISTRATION HAS AUTHORITY UNDER 30 U.S.C. SEC. 951(A) (1970) (SECTION 501(A) OF FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969) TO MAKE GRANT TO UNION FOR STUDY, RESEARCH, EXPERIMENT, OR DEMONSTRATION PROJECT FOR EMERGENCY MEDICAL TECHNICIAN TRAINING PROGRAMS FOR COAL MINERS. PROPOSED PROGRAM IS SUFFICIENTLY CLOSELY RELATED TO COAL MINE SAFETY (AS OPPOSED TO HEALTH) TO BE WITHIN JURISDICTION OF DEPARTMENT OF INTERIOR WHICH UNDER SECTION 951 IS RESPONSIBLE FOR SAFETY MATTERS.

GRANT PROPOSAL FOR EMERGENCY MEDICAL TECHNICIAN TRAINING FOR COAL MINERS:

THIS DECISION RESPONDS TO A REQUEST BY THE DEPUTY UNDER SECRETARY OF INTERIOR FOR OUR OPINION WHETHER THERE IS AUTHORITY UNDER THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, AS AMENDED (THE ACT), 30 U.S.C. SEC. 801-960 (1970 AND SUPP. V 1975), FOR THE MINING ENFORCEMENT AND SAFETY ADMINISTRATION (NESA) TO FUND EMERGENCY MEDICAL TECHNICIAN TRAINING PROGRAMS CONDUCTED BY PRIVATE PARTIES OR ORGANIZATIONS.

UNITED MINE WORKERS OF AMERICA (UMWA) HAS PROPOSED THAT MESA, WHICH HAS BEEN DELEGATED CERTAIN OF THE AUTHORITIES OF THE SECRETARY OF THE INTERIOR UNDER THE ACT, FUND SUCH A PROGRAM, TO BE ADMINISTERED BY UMWA. UMWA WOULD USE THE GRANT TO TRAIN MINERS TO PROVIDE EMERGENCY MEDICAL TREATMENT TO INJURED OR SICK FELLOW MINERS UNTIL PROFESSIONAL MEDICAL TREATMENT IS AVAILABLE. THE ULTIMATE GOAL OF THE PROGRAM WOULD BE TO PLACE AT LEAST ONE TRAINED MAN PER SHIFT AT EACH UNION-ORGANIZED MINE, BUT THE PRESENT PROPOSAL IS APPARENTLY FOR A PROTOTYPE OR DEMONSTRATION PROGRAM. MESA BELIEVES THAT THE UMWA CONCEPT IS MERITORIOUS AND WOULD LIKE TO CARRY IT OUT ON EITHER A GRANT OR CONTRACT BASIS IF IT IS AUTHORIZED TO DO SO.

30 U.S.C. SEC. 951(A) AUTHORIZES THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE (HEW), "AS APPROPRIATE," TO CONDUCT STUDIES, RESEARCH, EXPERIMENTS, AND DEMONSTRATIONS FOR CERTAIN ENUMERATED PURPOSES, AS WELL AS FOR SUCH OTHER PURPOSES AS THEY DEEM NECESSARY TO FULFILL THE OBJECTIVES OF THE ACT. SECTION 951(C) AUTHORIZES BOTH SECRETARIES TO ENTER INTO CONTRACTS WITH, AND MAKE GRANTS TO, PUBLIC AND PRIVATE ORGANIZATIONS AND INDIVIDUALS IN ORDER TO CARRY OUT THE PROVISIONS OF SECTION 951(A), 952(A), AND 861(B). ACTIVITIES UNDER SECTION 951 IN THE FIELD OF COAL MINE HEALTH ARE TO BE CARRIED OUT BY THE SECRETARY OF HEW, WHILE THOSE IN THE FIELD OF COAL MINE SAFETY ARE DELEGATED TO THE SECRETARY OF THE INTERIOR. 30 U.S.C. SEC. 951(B). THE TERMS "HEALTH" AND "SAFETY" ARE UNDEFINED IN THE ACT.

THE ASSOCIATE SOLICITOR-MINE HEALTH AND SAFETY, DEPARTMENT OF THE INTERIOR,

BASED ON THE CITED PROVISIONS, CONCLUDES THAT THE EMERGENCY MEDICAL TECHNICIAN TRAINING PROGRAM IS IN THE PROVINCE OF THE SECRETARY OF HEW BECAUSE IT IS "OBVIOUSLY A HEALTH-ORIENTED ENDEAVOR." ACKNOWLEDGES, HOWEVER, THAT HEW AND INTERIOR HAVE OVERLAPPING AUTHORITY UNDER THE ACT WITH RESPECT TO CERTAIN HEALTH MATTERS, AND THAT A DIFFERENT INTERPRETATION FROM THAT WHICH HE REACHED IS POSSIBLE.

WE GIVE GREAT WEIGHT, IN CONSTRUING A STATUTE, TO THE VIEW OF THE AGENCY CHARGED WITH CARRYING IT OUT. IN THIS INSTANCE, HOWEVER, INTERIOR HAS NOT TAKEN A FIRM POSITION. AS ALREADY NOTED, THE ASSOCIATE SOLICITOR ACKNOWLEDGES SOME DOUBT IN THE MATTER, AS A RESULT OF WHICH HE RECOMMENDED THAT THE QUESTION BE REFERRED TO US. THE DUPUTY UNDER SECRETARY CONSIDERS THERE IS AN OVERLAP OF JURISDICTION UNDER THE ACT BETWEEN HEW AND INTERIOR, AND REQUESTS OUR OPINION BECAUSE THE QUESTION IS A CLOSE ONE.

WHILE THE FUNCTION OF EMERGENCY MEDICAL TECHNICIANS CERTAINLY RELATES TO THE HEALTH OF MINERS, IN THAT THE TECHNICIANS WOULD PROVIDE FIRST AID IN THE EVENT OF ACCIDENT OR ILLNESS, THERE IS ALSO A REAL SENSE IN WHICH THE PRESENCE IN A MINE OF A MEDICAL TECHNICIAN TRAINED TO ASSIST MINERS IN AN EMERGENCY IS A SAFETY FACTOR. THIS IS, AS INTERIOR SUGGESTS, AN AREA OF OVERLAPPING JURISDICTION, WHERE THE SAME PROGRAM MAY BE RELATED TO BOTH HEALTH AND SAFETY. THE DEMONSTRATION PROGRAM PROPOSED BY UMWA IS SUFFICIENTLY CLOSELY RELATED TO SAFETY THAT WE WOULD NOT BE REQUIRED TO OBJECT IF INTERIOR WERE TO FUND THE PROPOSAL UNDER SECTION 951. WE WOULD REITERATE THAT SECTION 95U AUTHORIZED ONLY "STUDIES, RESEARCH, EXPERIMENTS AND DEMONSTRATIONS AS MY BE APPROPRIATE."

IN COMMENTING, AT OUR REQUEST, ON THIS ISSUE, HEW RECOGNIZES THAT INTERIOR HAS CERTAIN RESPONSIBILITIES UNDER THE ACT IN CONNECTION WITH EMERGENCY MEDICAL ASSISTANCE AND TRAINING. THUS, HEW POINTS OUT THAT UNDER SECTION 877(M) OF TITLE 30 (SECTION 317NM) OF THE ACT): E "THE ACT IMPOSES THE REQUIREMENT TO CONDUCT AN EMERGENCY MEDICAL ASSISTANCE AND TRAINING PROGRAM UPON UNDERGROUND COAL MINE OPERATORS AND PLACES THE RESPONSIBILITY FOR THE MONITORING AND ENFORCEMENT OF THE REQUIREMENTS FOR, AND THE PROVISION OF TECHNICAL ASSISTANCE RELATED TO, SUCH A PROGRAM UPON THE DEPARTMENT OF THE INTERIOR."

HOWEVER, HEW ALSO STATES THAT IT COULD FUND A PROPERLY DESIGNED RESEARCH OR DEMONSTRATION PROJECT FOR THE TRAINING OF EMERGENCY MEDICAL TECHNICIANS AS A HEALTH MATTER UNDER SECTION 951. IT IS NOT NOW NECESSARY TO DECIDE WHETHER INTERIOR'S FUNDING OF THE UMWA PROPOSAL WOULD NECESSARILY PREEMPT ANY AUTHORITY WHICH HEW MIGHT HAVE IN THIS AREA. WE SUGGEST THAT QUESTIONS SUCH AS THIS, INVOLVING THE EXERCISE OF JURISDICTION IN AREAS WHERE THE BOUNDARY BETWEEN HEALTH AND SAFETY MATTERS IS NOT CLEAR, MAY BEST BE RESOLVED BY CONSULTATION AND AGREEMENT BETWEEN HEW AND INTERIOR.