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| SECRETARY OF LABOR, | : | |
| | : | |
| Complainant, | : | |
| | : | |
| v. | : | OSHRC Docket No. 89-2611 |
| | : | |
| TRI-STATE STEEL | : | |
| CONSTRUCTION CO., INC., | : | |
| | : | |
| Respondent. | : | |

ORDER

Tri-State Steel Construction Co., Inc., (Tri-State) filed a petition for fees and expenses under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504. The administrative law judge aggregated the net worth of National Engineering and Contracting Co., Tri-State’s parent corporation, with the assets of Tri-State in finding that Tri-State’s net worth exceeded the \$7,000,000 limit for eligibility under the EAJA. *Tri-State Steel Const. Co.*, Nos. 89-2611, 89-2705 (February 10, 1997) (ALJ). The Sixth Circuit reversed and remanded. *Tri-State Steel Const. Co., Inc., v. Herman*, 164 F.3rd 973 (6th Cir. 1999). Tri-state has now filed a motion requesting that the Review Commission rule on its petition for fees and expenses.

We refer this case to the Chief Administrative Law Judge for further proceedings. So ordered.

/Signed/

Thomasina V. Rogers
Chairman

Date: August 18, 1999

/Signed/

Gary L. Visscher
Commissioner

89-2611

NOTICE IS GIVEN TO THE FOLLOWING:

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