

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

V. J. MAGEE,	)	
	)	
Claimant,	)	
	)	
v.	)	<b>IC 2000-020426</b>
	)	
THOMPSON CREEK MINING COMPANY,	)	
	)	
Employer,	)	<b>ORDER DENYING</b>
	)	<b>RECONSIDERATION</b>
and	)	
	)	
ACE FIRE UNDERWRITERS INSURANCE	)	filed February 18, 2009
COMPANY,	)	
	)	
Surety,	)	
	)	
Defendants.	)	
_____	)	

Pursuant to Idaho Code § 72-718, Claimant moves for reconsideration of the Commission’s October 21, 2008 decision in the above-referenced case. Claimant objects to the Commission’s finding that he has failed to establish a change of condition pursuant to Idaho Code § 72-719(1)(a). Claimant further objects to the Commission’s finding that application of the Commission’s October 15, 2004 decision in this case would not result in manifest injustice. Finally, Claimant objects to the Commission’s finding that several issues, which were previously litigated upon and decided in the 2004 decision, are barred from further consideration under the doctrine of *res judicata*. Claimant asks for oral argument on his motion for reconsideration.

Defendants reply that Claimant’s motion is essentially a request to re-weigh evidence and arguments already considered and ruled upon by the Commission. Defendants ask the Commission to deny Claimant’s motion.

The Commission agrees with Defendants that Claimant's arguments on these issues have already been considered. The Commission carefully examined and weighed all evidence and arguments before rendering the October 21, 2008 decision and remains unpersuaded by Claimant's arguments.

Accordingly, Claimant's motion for reconsideration is hereby DENIED. Claimant's motion for oral argument is also DENIED.

DATED this \_18th\_\_\_ day of February, 2009.

INDUSTRIAL COMMISSION

\_\_\_\_\_/s/\_\_\_\_\_  
R.D. Maynard, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas E. Limbaugh, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
James F. Kile, Commissioner

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the \_18<sup>th</sup> day of February, 2009 a true and correct copy of **Order Denying Reconsideration** was served by regular United States Mail upon each of the following:

EMIL F PIKE JR  
PO BOX 302  
TWIN FALLS ID 83303-0302

GLENNA M CHRISTENSEN  
PO BOX 829  
BOISE ID 83701-0829

eb/cjh

\_\_\_\_\_/s/\_\_\_\_\_