

CCASE:
SOL (MSHA) V. W. R. GRACE
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

Civil Penalty Proceeding

Docket No. DENV 79-407-PM
A.O. No. 24-00165-05001

v.

Zonolite Mine

W. R. GRACE AND CO.,
RESPONDENT

ORDER OF DISMISSAL

The Regional Solicitor, Denver, Colorado moves to withdraw and nol pros the captioned petition for a penalty assessment because of the "uncertainties of litigation." This vague and unparticularized reason would, if accepted, justify the dismissal of almost any case. For this reason, I believe the motion should be denied. Because of the Solicitor's obvious lack of zeal for vigorous enforcement, (FOOTNOTE 1) however, I find a further waste of the taxpayers' money in pursuing this \$30.00 penalty is unwarranted.

Accordingly, it is ORDERED that the motion to dismiss the captioned petition be, and hereby is, GRANTED.

Joseph B. Kennedy
Administrative Law Judge

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FOOTNOTES START HERE

~FOOTNOTE ONE

1 This violation is just one of 109 violations charged against respondent in this and six other dockets. In the other cases the Solicitor has moved for approval of a reduction in the penalties that amounts to almost two-thirds the amount originally assessed. It is a small wonder that the operators continue to regard civil penalties as a "cheap nuisance". Even more disturbing is the fact that after a year in office the Commission has issued no decision setting guidelines for the assessment of meaningful penalties. In fact, if I read the Commission's new rules correctly, the Commission has effectively repealed section 110(k) of the Act, 30 U.S.C. | 820(k).