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SOL (MSHA) V. COMINCO AMERICAN INC.
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

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

v.

COMINCO AMERICAN, INC.,
RESPONDENT

Civil Penalty Proceeding

Docket No. WEST 79-212-M
A/O No. 24-00146-05003

Warm Springs Mine

ORDER OF DISMISSAL

On October 1, 1979, respondent Cominco American, Inc., filed a motion to dismiss the civil penalty complaint for the reason that it had not been filed within 45 days of the receipt of respondent's notice of contest as required by 29 CFR 2700.27.

Petitioner has not responded to the motion within the time allowed by our procedural rules nor has it responded at all. The motion is granted, the citation vacated and the case is DISMISSED.

In view of this disposition the parties are directed to advise me if they still intend to pursue Docket No. DENV 79-49-M.

Charles C. Moore, Jr.
Administrative Law Judge