

CCASE:

SOL (MSHA) V. OLD BEN COAL

DDATE:

19801029

TTEXT:

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. LAKE 80-358
A.O. No. 12-00329-03012

v.

Mine: Old Ben No. 2 Strip

OLD BEN COAL COMPANY,
RESPONDENT

ORDER OF DISMISSAL

Petitioner moved to withdraw its petition for a civil penalty in this matter "without prejudice, and with leave to the Secretary to initiate proceedings against the independent contractor." The motion stated that the worksite where the subject citation was issued was under the control of an independent contractor. It also stated that there is no evidence that any employees of Respondent were exposed to the cited condition, and that Petitioner has no reason to believe that the independent contractor cannot be served.

Commission Rule 11, 29 C.F.R. 2700.11, allows a party to "withdraw a pleading at any stage of a proceeding with the approval of the Commission or the Judge." Based on the reasons set forth in the motion, the Motion is GRANTED and this case is DISMISSED WITHOUT PREJUDICE.

Edwin S. Bernstein
Administrative Law Judge