

CCASE:
SOL (MSHA) V. QUARTO MINING
DDATE:
19810105
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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

v.

QUARTO MINING COMPANY,
RESPONDENT

Civil Penalty Proceeding

Docket No. LAKE 80-360
A/O No. 33-01157-03167

Powhatan No. 4 Mine

DECISION

This case consists of a petition for the assessment of civil penalties for two alleged violations of the Act. The operator has filed a motion to dismiss the proceeding and the Solicitor has filed a memorandum in opposition to the respondent's motion. For the reasons which follow respondent's motion is hereby GRANTED.

Citations 779679 and 825966 were issued for alleged violations of 30 CFR 75.316. On September 8, 1980 a hearing was held in Secretary of Labor v. Nacco Mining Company, Quarto Mining Company and The North American Coal Corporation, LAKE 80-251, et al. in which the same provision of respondent's dust control plan at issue in these citations was litigated. In those cases a decision dated September 22, 1980 held invalid this provision of the dust control plan. The decision in LAKE 80-251 is dispositive of these citations.

ORDER

Citations 779679 and 825966 are hereby VACATED and the petition to assess civil penalties is hereby DISMISSED.

Paul Merlin
Assistant Chief Administrative Law Judge