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SOL (MSHA) V. WESTMORELAND  
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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. WEVA 83-244  
A.C. No. 46-01283-03521

v.

Hampton No. 3 Mine

WESTMORELAND COAL COMPANY,  
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Steffey

Counsel for the Secretary of Labor filed on March 26, 1984, in the above-entitled proceeding a motion to withdraw the petition for assessment of civil penalty filed in Docket No. WEVA 83-244 on the ground that the violation of 30 C.F.R. 75.305, for which a penalty was being sought, was alleged in Citation No. 2037679 which has been vacated as having been issued in error.

The motion for permission to withdraw explains that a prior violation of section 75.305 had previously been written and respondent had been allowed to abate that alleged violation in a manner which was still being followed at the time the instant violation of section 75.305 was written citing respondent for the identical violation which had previously been abated in a manner which was satisfactory to MSHA at that time. It is believed that the instant violation was written in error since respondent was still adhering to the procedures which had been previously approved. In such circumstances, I find that good cause has been shown to warrant granting of the motion to withdraw.

WHEREFORE, it is ordered:

The motion to withdraw is granted, the petition for assessment of civil penalty is deemed to have been withdrawn, and all further proceedings in Docket No. WEVA 83-244 are dismissed.

Richard C. Steffey  
Administrative Law Judge