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GREENWICH COLLIERIES v. SOL (MSHA)
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

GREENWICH COLLIERIES,
DIVISION OF PENNSYLVANIA
MINES CORPORATION,
CONTESTANT

CONTEST PROCEEDING

Docket No. PENN 85-115-R
Citation No. 2255647; 1/17/85

v.

Greenwich No. 1 Mine

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

ORDER GRANTING MOTION TO WITHDRAW

Before: Judge Steffey

Counsel for contestant filed on May 1, 1985, a motion to withdraw the notice of contest filed in the above-entitled proceeding. The reason given in support of granting the motion is that contestant has paid the civil penalty proposed by MSHA with respect to the violation alleged in Citation No. 2255647. In such circumstances, contestant states that it now has no interest in pursuing the matters raised in the notice of contest. I find that the motion should be granted for the reason given by contestant and for the reason given by the Commission in its decision in Old Ben Coal Co., 7 FMSHRC 205 (1985).

In a prehearing order issued March 14, 1985, the issues raised in the notice of contest filed in Docket No. PENN 85-115-R were consolidated with the issues raised by the notice of contest filed in Docket No. PENN 85-114-R. The instant case should be severed from the consolidated proceeding in Docket No. PENN 85-114-R so that it will be clear that it is no longer the subject of the prehearing order issued in both dockets.

WHEREFORE, it is ordered:

(A) The issues raised by the notice of contest filed in Docket No. PENN 85-115-R are severed from the issues raised by the notice of contest filed in Docket No. PENN 85-114-R for purposes of separate disposition as hereinafter ordered.

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(B) The motion to withdraw filed May 1, 1985, is granted, the notice of contest filed in Docket No. PENN 85-115-R is deemed to have been withdrawn, and all further proceedings herein are dismissed.

Richard C. Steffey
Administrative Law Judge