

CCASE:
HOMESTAKE MINING V. SOL (MSHA)
DDATE:
19860305
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

HOMESTAKE MINING COMPANY,
CONTESTANT

CONTEST PROCEEDING

v.

Docket No. CENT 86-24-RM
Citation No. 2635045; 11/14/85

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

Homestake Mine

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

CIVIL PENALTY PROCEEDINGS

Docket No. CENT 85-93-M
A.C. No. 39-00055-05545

v.

Docket No. CENT 85-118-M
A.C. No. 39-00055-05550

HOMESTAKE MINING COMPANY,
RESPONDENT

Homestake Mine

DECISION AND ORDER OF DISMISSAL

Appearances: Timothy M. Biddle, Esq., Crowell & Moring,
Washington, D.C., and Robert A. Amundson, Esq.,
Amundson, Fuller and Delaney, Lead, South Dakota,
for Contestant/Respondent;
James H. Barkley, Esq., Office of the Solicitor,
U.S. Department of Labor, Denver, Colorado,
for Respondent/Petitioner.

Before: Judge Lasher

Docket No. CENT 85-118-M. At the commencement of the hearing in this expedited and consolidated proceeding, the Secretary moved to withdraw his Proposal for Penalty Assessment for failure of proof. The motion was granted pursuant to 29 C.F.R. 2700.11 and the Section 107(a) Order and the Section 104(a) Citation No. 2358414 involved was ordered vacated on the record. Accordingly, this docket is DISMISSED.

Docket No. CENT 85-93-M. Subsequent to the commencement of the hearing, and after further investigation, the Secretary moved to dismiss this proceeding for failure of proof. The motion, construed to be to withdraw the Proposal for Penalty Assessment, was granted pursuant to 29 C.F.R. 2700.11, and Citation No. 2097258 was ordered vacated on the record. Accordingly, this docket is DISMISSED.

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Docket No. CENT 86Ä24ÄRM. Subsequent to the commencement of the hearing, and after further investigation, the Secretary moved to vacate the Section 104(d)(1) Citation (No. 2635045) involved for failure of proof. The motion was granted on the record, and the subject Citation was ordered vacated. Accordingly, the docket is DISMISSED.

The vacation of the three citations set forth above are with prejudice to the Secretary to reinstitute the same in the future.

Michael A. Lasher, Jr.
Administrative Law Judge