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SOL (MSHA) V. GREENWICH COLLIERIES
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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. PENN 85-307
A.C. No. 36-02404-03595

v.

Greenwich No. 2 Mine

GREENWICH COLLIERIES,
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Koutras

This proceeding concerns a proposal for assessment of civil penalty filed by the petitioner against the respondent pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. The petitioner proposed a civil penalty assessment in the amount of \$1,000, for an alleged violation of mandatory safety standard 30 C.F.R. 75.316, as stated in section 104(d)(2) Order No. 2407481, April 18, 1986.

This case was docketed for hearing with seven other cases in Indiana, Pennsylvania, during the hearing term June 3, 4, 1986. When the case was called for trial, petitioner's counsel confirmed that the contested order has been vacated. Counsel moved that the civil penalty proposal be withdrawn, and that the case be dismissed. In support of the motion, counsel asserted that the inspector relied on an incorrect standard and that the cited "condition or practice" does not constitute a violation of the respondent's approved ventilation plan.

After due consideration of the petitioner's oral motion to dismiss, IT IS GRANTED, and this case IS DISMISSED.

George A. Koutras
Administrative Law Judge