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SOL (MSHA) V. GREEN RIVER TERMINAL
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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. KENT 85-198
A.C. No. 15-15035-03501

v.

Green River Terminal Mine

GREEN RIVER TERMINAL
INCORPORATED,
RESPONDENT

ORDER OF RECISSION
ORDER TO SUBMIT INFORMATION

Before: Judge Merlin

The Solicitor has filed a Motion for Recission in this case.
The facts are as follows.

On September 10, 1985, the Solicitor filed a penalty petition in this case assessing a \$20 penalty against the operator. On April 15, 1986, the operator was ordered to answer the petition or show cause for its failure to do so. In a letter of April 21, 1986, the operator reported that the penalty had been paid. Based on this information, an order of dismissal was issued on May 27, 1986. The Solicitor, contending that the penalty had not been paid, filed a motion for recission on June 19, 1986 and moved for a default. Further investigation indicates that the operator paid \$20 to MSHA on January 29, 1986. The Solicitor maintains, however, that the payment of January 29, 1986 was for another violation not involved in this case. The operator apparently believes it does not owe anything.

Rather than grant the Solicitor's motion for default at this time, the fairer course would be for both parties to check their records, consult with each other and report back to me in writing within 21 days.

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Accordingly, the motion for rescission of the order of May 27, 1986 is GRANTED and the parties are ORDERED to communicate, by telephone or otherwise, and to report the results of their discussions in writing to me no later than 21 days from the date of this order.

Paul Merlin
Chief Administrative Law Judge