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SOL (MSHA) V. U. S. STEEL MINING
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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 86-214
A.C. No. 36-05018-03604

v.

Cumberland Mine

UNITED STATES STEEL MINING
COMPANY, INCORPORATED,
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Merlin

The Solicitor has filed a motion to withdraw his penalty petition in this case. The Solicitor represents that the two citations involved were withdrawn by MSHA on August 11, 1986. Both citations were issued for violations of 30 C.F.R. 75.503 because, in the opinion of the inspector, the battery lids on two scoops were not properly fastened. The facts presented by these citations are almost identical to those in two previous cases in which no violation was found. Secretary of Labor v. United States Steel Mining Co., Inc., 6 FMSHRC 155, 156 (1984); Secretary of Labor v. United States Steel Mining Co., Inc., 6 FMSHRC 1510, 1518 (1984). Therefore, the withdrawal of the two citations and the penalty petition is proper.

Accordingly, the motion to withdraw the penalty petition is GRANTED and this case is DISMISSED.

Paul Merlin
Chief Administrative Law Judge