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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. WEST 87-219
A.C. No. 05-04184-03504

v.

COLORADO WESTMORELAND
INCORPORATED,
RESPONDENT

Orchard Valley West Mine

ORDER GRANTING PETITIONER'S MOTION TO VACATE CITATION AND
PROPOSAL FOR PENALTY AND ORDER OF DISMISSAL

Before: Judge Cetti

On March 19, 1987, respondent was issued an order (later modified to a citation) for a violation of 30 C.F.R. 75.400. That standard required combustible materials be cleaned up and not permitted to accumulate. Respondent cleaned up the combustible material based on its understanding of what was acceptable to MSHA.

Because of respondent's reliance on its understanding of MSHA's requirements, petitioner moves that the citation and proposed penalty be vacated.

Good cause having been shown, petitioner's motion that the citation and the proposed penalty be vacated is granted and this proceeding is dismissed.

August F. Cetti
Administrative Law Judge