

CCASE:
SOL V. MERAMEC AGGREGATES
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FMSHRC-WDC
June 3, 1988

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
Petitioner
v.
MERAMEC AGGREGATES, INC.,
Respondent

CIVIL PENALTY PROCEEDING
Docket No. CENT 88-40-M
A. C. No. 23-00708-05502
Meramec Aggregates, Inc.

ORDER OF DISMISSAL

Before: Judge Merlin

On December 11, 1987, the operator's request for a hearing was received by this Commission. Commission rules require a proposal for a penalty to be filed within 45 days of the date the Secretary receives a timely notice of contest. 29 C.F.R. § 2700.27. The Solicitor failed to file a penalty petition. Therefore, on March 17, 1988, an order was issued directing the Solicitor to show cause why this case should not be dismissed. The order was mailed to the Solicitor by certified mail, return receipt requested, and the file contains the receipt card from the Solicitor.

The file indicates that on April 27 my law clerk spoke to the Solicitor, Mr. Charles Mangum, who stated he would file the penalty petition or a response to the Show Cause Order on April 28. But he did not do so. The Commission does not have the resources to keep reminding Solicitors to do what the Act and regulations require.

Due to the Solicitor's failure to file a penalty petition and to comply with the show cause order, this case must be and is hereby DISMISSED.

Paul Merlin
Chief Administrative Law Judge

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Distribution:

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