

CCASE:
SOL (MSHA) V. EMERY MINING
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

CIVIL PENALTY PROCEEDINGS

Docket No. WEST 86-240
A.C. No. 42-00121-03610
Deer Creek Mine

v.

EMERY MINING CORPORATION;
UTAH POWER & LIGHT COMPANY,
RESPONDENT

Docket No. WEST 86-243
A.C. No. 42-01944-03514
Cottonwood Mine

Docket No. WEST 86-257
A.C. No. 42-00080-03570
Wilberg Mine

ORDER OF DISMISSAL

Before: Judge Morris

The Secretary has moved to withdraw her request for civil penalties herein.

As a grounds therefor the Secretary states the 10th Circuit Court of Appeals has vacated the citations herein.

The Secretary further notes that the Circuit Court's decision clarifies a point of Mine Act interpretation. Accordingly, the Secretary requests that the Court's decision be attached to this order of dismissal so the decision may be readily reviewed by Mine Act practitioners.

For the foregoing reasons the following order is appropriate:

ORDER

For good cause shown, the Secretary's motions are GRANTED and the cases herein are dismissed.

Further, a copy of the 10th Circuit Court of Appeals decision is attached to this order of dismissal.

John J. Morris
Administrative Law Judge