

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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August 7, 2009

MILESTONE MATERIALS,	:	CONTEST PROCEEDING
Div. of MATHY CONSTRUCTION	:	
Contestant	:	Docket No. LAKE 2009-432-RM
	:	Citation No. 6494042; 04/14/2008
v.	:	
	:	
SECRETARY OF LABOR,	:	Mine: Plant #66
MINE SAFETY AND HEALTH	:	Mine ID 47-03274
ADMINISTRATION (MSHA),	:	
Respondent	:	

DECISION

Appearances: Rafael Alvarez, U.S. Department of Labor, Chicago, Illinois, on behalf of the Respondent
Adele L. Abrams, Esq., Office of Adele L. Abrams, P.C., Beltsville, Maryland, on behalf of the Contestant

Before: Judge Barbour

In this proceeding, Milestone Materials, Division of Mathy Construction (“Milestone”), challenges the validity of Citation No. 6494042, a citation that, as amended, alleges Milestone violated 30 C.F.R. § 46.6(a), a mandatory training standard for newly-employed, experienced miners. Milestone asserts the citation is invalid because the person alleged in the citation to lack the required training is not a “miner” as that word is defined in Part 46. The Secretary responds that the citation is valid in all respects. The case was tried on June 24, 2009.

After the trial adjourned and the transcript was received, the parties advised me they had resolved their differences. Counsel for the Secretary then filed a motion to dismiss, stating that “[a]fter reviewing the facts . . . and in light of . . . new information,” Citation No. 6494042 has been vacated. Motion to Dismiss 1. Milestone does not oppose the motion. Id.

ORDER

WHEREFORE, the citation at issue having been vacated, this proceeding is moot and **IS DISMISSED**.

David F. Barbour
Administrative Law Judge

Distribution: (Certified Mail)

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