

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
601 New Jersey Avenue, N.W., Suite 9500  
Washington, D.C. 20001

August 6, 2007

|                               |   |                             |
|-------------------------------|---|-----------------------------|
| SECRETARY OF LABOR,           | : | CIVIL PENALTY PROCEEDING    |
| MINE SAFETY AND HEALTH        | : |                             |
| ADMINISTRATION (MSHA),        | : | Docket No. KENT 2002-251    |
| Petitioner                    | : | A.C. No. 15-05106-03501 WNH |
|                               | : |                             |
| v.                            | : |                             |
|                               | : |                             |
| GEO-ENVIRONMENTAL ASSOCIATES  | : |                             |
| Respondent                    | : |                             |
|                               | : |                             |
| GEO/ENVIRONMENTAL ASSOCIATES, | : | EQUAL ACCESS TO JUSTICE     |
| Applicant                     | : | PROCEEDING                  |
|                               | : |                             |
| v.                            | : | Docket No. EAJ 2004-01      |
|                               | : |                             |
| SECRETARY OF LABOR,           | : | Formerly KENT 2002-251      |
| MINE SAFETY AND HEALTH        | : |                             |
| ADMINISTRATION (MSHA),        | : | Mine ID 15-05106-03501 WNH  |
| Respondent                    | : | Preparation Plant           |

**ORDER OF DISMISSAL**

Before: Judge Zielinski

The Civil Penalty Proceeding is before me on remand from the Commission, which by Decision dated May 30, 2006, reversed the dismissal of Citation No. 7044409, and remanded for assessment of a civil penalty. *Martin County Coal, Corp*, 28 FMSHRC 247, 258-59 (May 2006). The parties have jointly filed a motion to dismiss the petition on grounds that the underlying Citation No. 7044409 has now been vacated.<sup>1</sup> Respondent, GEO-Environmental has agreed to withdraw its application for attorney's fees and expenses under the Equal Access to Justice Act, and has joined in the motion to dismiss the Equal Access to Justice Proceeding.

Upon consideration of the foregoing, the motion is hereby **GRANTED** and these cases are hereby **DISMISSED**.

Michael E. Zielinski  
Administrative Law Judge

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<sup>1</sup> Three other citations that were at issue in Docket No. KENT 2002-251, have been resolved by previous Administrative Law Judge and Commission decisions.

Distribution:

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