

CCASE:
JIM WALTER RESOURCES V. MSHA
DDATE:
19870325
TTEXT:

FMSHRC-WDC
March 25, 1987

JIM WALTER RESOURCES, INC.,

v.

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

Docket No. SE 87-29-R

BEFORE: Ford, Chairman; Backley, Doyle, Lastowka and Nelson,
Commissioners

ORDER

BY THE COMMISSION:

In this matter pending on review, Jim Walter Resources, Inc. ("JWR"), has filed an unopposed motion to withdraw its petition for discretionary review and to dismiss the proceeding.

In his decision below, Commission Administrative Law Judge Avram Weisberger concluded that JWR had failed to comply with a notice to provide safeguards relating to clearance on an underground rail system and dismissed JWR's contest of the citation issued for the violation. 9 FMSHRC 102 (January 1987)(ALJ). On February 24, 1987, the Commission granted JWR's petition for discretionary review. In its present motion, JWR asserts that a stop-block system has been installed along the rail system to abate the alleged violation and that now "[n]o true dispute remains between the parties...." JWR also states that the Secretary of Labor does not oppose the granting of this motion.

Upon consideration of JWR's motion, it is granted. Accordingly, the Commission's direction for review in this matter is vacated, and this proceeding is dismissed.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

~391

Distribution

R. Stanley Morrow, Esq.
Harold D. Rice, Esq.
Jim Walter Resources, Inc.
P.O. Box C-79
Birmingham, Alabama 35283

Harold D. Rice, Esq.
Jim Walter Corporation
1500 North Dale Mabry Highway
Tampa, Florida 33607

Barry Wisor, Esq.
Office of the Solicitor
U.S. Department of Labor
4015 Wilson Blvd.
Arlington, VA 22203

Administrative Law Judge Avram Weisberger
Federal Mine Safety and Health Review Commission
5203 Leesburg Pike, Suite 1000
Falls Church, Virginia 22041