

CCASE:  
GOLDEN OAK MINING V. MSHA  
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
WASHINGTON, D.C.  
September 20, 1990

GOLDEN OAK MINING COMPANY, L.P.

v. Docket No. KENT 90-185-R

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

BEFORE: Backley, Acting Chairman; Doyle and Nelson, Commissioners

ORDER

BY THE COMMISSION:

In this contest proceeding pending on review, arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (1988) ("Mine Act"), counsel for petitioner Golden Oak Mining Company, L.P. ("Golden Oak") has filed a Motion for Leave to Withdraw Petition for Discretionary Review. Counsel for the Secretary of Labor has filed a Response indicating that the Secretary "supports" Golden Oak's motion. In the proceeding below, Commission Administrative Law Judge James A. Broderick concluded that Golden Oak had violated 30 C.F.R. 75.1712-1 by not providing a surface bathing facility at its underground coal mine, and that the Department of Labor's Mine Safety and Health Administration ("MSHA") had not abused its discretion in denying Golden Oak's request for a waiver of the standard's requirements. 12 FMSHRC 1360 (June 1990)(ALJ). In its present motion, Golden Oak states that MSHA has now granted it a waiver of the bathing facility requirements and that its contest is "moot." Upon consideration of Golden Oak's motion and the Secretary's response, we conclude that adequate reasons have been presented for dismissal of this proceeding and we grant the motion. See generally, e.g., Youghioghney & Ohio Coal Co., 7 FMSHRC 200, 203 (February 1985).

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Accordingly, the Commission's direction for review is vacated and this proceeding is dismissed. \*/

Distribution

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\*/ Pursuant to section 113(c) of the Mine Act, 30 U.S.C. 823(c), we have designated ourselves as a panel of the three Commissioners to exercise the powers of the Commission in this matter.