

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

1730 K STREET NW, 6TH FLOOR  
WASHINGTON, D.C. 20006

October 7, 1996

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
on behalf of RAMON S. FRANCO

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v.

Docket No. WEST 96-120-DM

W. A. MORRIS SAND AND  
GRAVEL, INC.

BEFORE: Jordan, Chairman; Marks and Riley, Commissioners<sup>1</sup>

ORDER

BY THE COMMISSION:

In this civil penalty proceeding arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (1994) (“Mine Act”), W. A. Morris Sand and Gravel, Inc. (“Morris”) has filed with the Commission a motion to withdraw its appeal. The Secretary of Labor (“Secretary”) has not filed a response.

On February 26, 1996, Morris filed a petition for discretionary review with the Commission challenging, inter alia, a temporary reinstatement order of Administrative Law Judge Richard W. Manning. On March 14, 1996, the Commission granted in part Morris’ petition with respect to one jurisdictional issue. The Secretary subsequently filed a motion to stay briefing until the judge issued a ruling on the jurisdictional issue in the related pending discrimination proceeding. On April 9, 1996, the Commission granted the motion and briefing was stayed.

In the present motion, Morris states that the parties have reached a settlement in this and related proceedings, which was approved by the judge on August 19, 1996.

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<sup>1</sup> Pursuant to section 113(c) of the Mine Act, 30 U.S.C. § 823(c), we have designated ourselves a panel of three members to exercise the powers of the Commission.

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

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Mary Lu Jordan, Chairman

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Marc Lincoln Marks, Commissioner

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James C. Riley, Commissioner

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