

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

September 18, 1995

W-P COAL COMPANY	:	
	:	
v.	:	Docket No. WEVA 92-746
	:	
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	

BEFORE: Doyle, Holen and Marks, Commissioners¹

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. (1988) (AMine Act@), W-P Coal Company (AW-P@) has filed with the Commission a Motion to Withdraw Appeal. The Secretary of Labor (ASecretary@) has not filed a response.

On January 9, 1995, the Commission granted W-P's petition for discretionary review of a decision of Administrative Law Judge Gary Melick in Docket No. WEVA 92-746. In the present motion, filed June 5, 1995, W-P states that the Secretary and W-P entered into a settlement agreement as to other related proceedings pending before Judge Melick, which had been stayed pending final disposition of Docket No. WEVA 92-746, and that, as a part of the settlement agreement, W-P agreed to withdraw its appeal in the instant proceeding. Mot. at 1-2. W-P requests that, upon Judge Melick's approval of the settlement of the related proceedings, this proceeding be dismissed. *Id.* at 2.

Judge Melick has approved the settlement and dismissed the proceedings before him.

¹ Chairman Jordan has recused herself in this matter. 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.

Joyce A. Doyle, Commissioner

Arlene Holen, Commissioner

Marc Lincoln Marks, Commissioner