

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1730 K STREET, N.W., 6TH FLOOR
WASHINGTON, D. C. 20006-3868

January 31, 1997

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	Docket No. CENT 96-112
Petitioner	:	A.C. No. 34-01787-03504
	:	
v.	:	Docket No. CENT 96-160
H M I a.k.a. HEATHERLY	:	A. C. No. 34-01787-03505
MINING, INCORPORATED,	:	
Respondent	:	Docket No. CENT 96-161
	:	A. C. No. 34-01787-03507
	:	
	:	Docket No. CENT 96-165
	:	A. C. No. 34-01787-03506
	:	
	:	Docket No. CENT 96-166
	:	A. C. No. 34-01787-03508
	:	
	:	Pollyanna #8
	:	
	:	Docket No. CENT 96-167
	:	A. C. No. 34-01633-03601
	:	
	:	Pollyanna #4
	:	
	:	Docket No. CENT 96-168
	:	A. C. No. 34-01746-03520
	:	
	:	Pollyanna #7

ORDER OF DISMISSAL

Before: Judge Merlin

On November 26, 1996, I issued an order directing the operator to provide additional information to support its motions to dismiss the above captioned cases.

The operator had filed identical motions to dismiss in these cases stating that it had paid \$75,000 pursuant to a settlement agreement with MSHA for all violations issued to the operator on or before June 30, 1996. The operator attached a copy of the settlement agreement which contained a list identifying the matters involved in the settlement. The violations in these cases were issued before June 30, 1996, but the instant cases did not appear on that list.

In a letter to operator's counsel dated January 16, 1997, a copy of which was sent to the Commission, the Solicitor lists all current civil penalty assessments pending against Heatherly Mining Company, HMI, and/or P&K. The instant cases are included on this list. The Solicitor states that the Secretary has deemed

these cases uncollectible. The Solicitor further states that all civil penalties assessed against the aforementioned companies for citations issued after August 1, 1996, will be reassessed in the name of George Colliers, Incorporated.

In light of the foregoing, it is clear that the Secretary no longer intends to prosecute these civil penalties against this operator. Therefore, these matters can be dismissed.

Accordingly, it is ORDERED that these cases be DISMISSED.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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