

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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March 30, 1995

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. SE 94-569
Petitioner	:	A.C. No. 40-03011-03563 S
v.	:	
	:	Mine No. 7
S & H MINING, INC.,	:	
Respondent	:	

DECISION APPROVING SETTLEMENT

Appearances: Thomas A. Grooms, Esq., Office of the Solicitor,
U.S. Department of Labor, Nashville, Tennessee for
the Petitioner;
Imogene A. King, Esq., Frantz, McConnell &
Seymour, Knoxville, Tennessee for the Respondent.

Before: Judge Melick

This case is before me upon a petition for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). Following hearings the parties filed a joint motion to approve a settlement agreement and to dismiss the case. As a result of evidence adduced at hearings and a subsequent modification of the original citation, an increase in penalty from \$2,500 to \$4,000 has been proposed. I have considered the representations and documentation submitted in this case, including the evidence at hearings, and I conclude that the proffered settlement is acceptable under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is **GRANTED**, and it is **ORDERED** that Respondent pay a penalty of \$4,000 within 30 days of this order.

Gary Melick
Administrative Law Judge

Distribution:

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