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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)  
Office of Administrative Law Judges

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

Civil Penalty Proceeding

Docket No. BARB 78-583-P  
A.C. No. 15-09365-02004

v.

No. 1 Surface Mine

CREEKVIEW COAL CORPORATION,  
RESPONDENT

DECISION

Appearances: Marvin Tincher, Esq., Office of the Solicitor, U.S.  
Department of Labor, for Petitioner  
Tollie Young, President, Creekview Coal Corporation,  
for Respondent

Before: Judge Lasher

This proceeding arose under section 109 of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801 et seq. (1970). Pursuant to section 301(c)(3) of the Federal Mine Safety and Health Act of 1977, proceedings pending at the time such Act takes effect shall be continued before the Federal Mine Safety and Health Review Commission.

A hearing on the merits was held in Lexington, Kentucky, on May 21, 1979. After considering evidence submitted by both parties, and argument, I entered a detailed oral opinion on the record at the close of the hearing. It was found that the six violations charged did occur. It was further determined that a penalty otherwise warranted by consideration of the various penalty assessment criteria provided by statute would have no adverse affect on Respondent's ability to continue in business. Respondent was assessed penalties totaling \$356.

Respondent is ordered to pay the penalties assessed of \$356 within 30 days from the date of this decision.

Michael A. Lasher, Jr.  
Judge