

CCASE:  
SOL (MSHA) V. SOUTHERN OHIO COAL  
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Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

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

Civil Penalty Proceeding

Docket No. VINC 79-149-P  
A.O. No. 33-01173-03012

v.

Meigs No. 2 Mine

SOUTHERN OHIO COAL COMPANY,  
RESPONDENT

DECISION

Appearances: Linda Leasure, Attorney, Office of the Solicitor,  
U.S. Department of Labor, Cleveland, Ohio, for the  
Petitioner David M. Cohen, Esquire, Lancaster, Ohio,  
for the Respondent

Before: Judge Koutras

Statement of the Case

This proceeding is one of twelve docketed cases scheduled for hearings on the merits at Columbus, Ohio, June 19, 1979. A petition for assessment of civil penalty was filed in this case by the petitioner pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a) on January 22, 1979, seeking civil penalty assessments for three alleged violations of the Act and implementing mine safety and health standards. Respondent filed timely answers contesting the citations, and pursuant to notice, the parties appeared at the time and place for the hearing. During a prehearing conference on the record, the parties informed me that they had reached a tentative settlement with respect to this docket. They requested an opportunity to be heard with respect to the proposed settlement and that I approve same pursuant to Commission Rule 29 CFR 2700.27(d).

The parties were afforded an opportunity to present arguments in support of the proposed settlement. The citations, initial assessments, and the proposed settlement amounts are as follows:

Citation No.	Date	30 CFR Section	Assessment	Settlement
279170	8/15/78	75.400	\$225	\$130
279171	8/15/78	75.301-1	\$295	\$295
279172	8/15/78	75.301-4(b)(1)	\$255	\$255

Discussion

Regarding citations 279171 and 279172, respondent agreed to pay in full the penalties initially assessed for those citations. With regard to citation 279170, concerning an alleged accumulation of oil and grease on and around a cutting machine motor, petitioner asserted that while the respondent was negligent in allowing the condition to occur and that it could result in a probable mine fire, the condition was promptly abated and the respondent exercised good faith in this regard (Tr. 24-29).

ORDER

After due consideration of this matter, I find that the proposed settlement should be approved. Accordingly, pursuant to 29 CFR 2700.27(d), respondent is ordered to pay civil penalties totaling \$680.00 in satisfaction of the cited violations within thirty days of the date of this decision. Upon receipt of payment, the matter is dismissed.

George A. Koutras  
Administrative Law Judge