

CCASE:  
SOL (MSHA) V. NEW JERSEY ZINC  
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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 Proceedings

Docket No. WILK 79-59-PM  
A/O No. 28-00393-05002

v.

Docket No. WILK 79-100-PM  
A/O No. 28-00393-05003

NEW JERSEY ZINC COMPANY,  
RESPONDENT

Sterling Mine & Mill

DECISION

ORDER TO PAY

The above-captioned actions are two petitions for the assessment of civil penalties for thirty-two alleged violations of the Act.

At the hearing on July 5, 1979, the Solicitor moved to withdraw two of the violations on the grounds that the conditions described were not covered by the cited standards. The Solicitor's explanations were accepted from the bench and the two items in question were dismissed.

The originally assessed amount for the remaining items was \$2292. The Solicitor advised at the hearing that the parties had agreed to settle these items. He explained each of them individually in detail. Most of them did not present particularly serious violations and in many instances the Solicitor stated that he was not prepared to prove the existence of negligence. Even more importantly, the operator had no prior history of violations and the cited violations in fact, occurred during the first inspection of this mine under the 1977 Act. The recommended settlements totalled \$1603. In view of the circumstances which are fully set forth in the administrative transcript of the hearing, the recommended settlements are approved.

ORDER

The operator is ORDERED to pay \$1603 within 30 days from the date of this decision.

Paul Merlin  
Assistant Chief Administrative Law Judge