

CCASE:  
SOL (MSHA) V. KERR-MCGHEE COAL  
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TTEXT:

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. DENV 79-461-P  
A/O No. 48-01096-03003

v.

Docket No. DENV 79-460-P  
A/O No. 48-01096-03002

KERR-MCGEE COAL CORP.,  
RESPONDENT

Docket No. DENV 79-462-P  
A/O No. 48-01096-03004

East Gillette No. 16 Surface Mine

DECISION

These cases concern four citations and one order issued to Respondent for safety violations committed by independent construction contractors operating at Respondent's "East Gillette No. 16 Surface Mine."

Having stipulated that the facts contained in the citations are true, and that the proposed penalties are reasonable, both parties submit that the only issue remaining is whether Respondent was the proper party to be cited.

After MSHA v. Monterey Coal Co., 1 FMSHRC 1781 (November 1979), it is clear that Respondent was properly cited. The Commission based its decision in that case on MSHA v. Old Ben Coal Co., 1 FMSHRC 1480 (October 1979), wherein it held that until final rules were promulgated, the practice of citing owner-operators for independent contractor violations would be upheld for reasons of consistent enforcement.

Based upon the foregoing and the parties' stipulation, I find Respondent was properly cited for the violations contained herein.

ORDER

It is therefore ORDERED that Respondent pay to MSHA, within 30 days, a civil penalty in a total amount of \$796.

Charles C. Moore, Jr.  
Administrative Law Judge