

CCASE:  
SOL (MSHA) V. STOUDT'S FERRY PREP.  
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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. WILK 79-149-P  
A.C. No. 36-02011-03001

v.

Stoudt's Ferry Preparation  
Plant

STOUDT'S FERRY PREPARATION COMPANY,  
RESPONDENT

ORDER APPROVING SETTLEMENT AND  
DIRECTING PAYMENT

On February 11, 1980, Petitioner filed a motion to approve a settlement in the above-captioned proceeding. The Petitioner states that the amount of the original assessment is \$470 and the amount of the settlement is \$200.

As grounds for its motion, the Petitioner states that the citation in question was issued for the operator's denial of entry to an authorized representative for the purpose of conducting an inspection. The third circuit, in *Marshall v. Stoudt's Ferry Preparation Company*, 602 F.2d 589 (3rd Cir. 1979), determined that the company was covered by the Mine Safety and Health Act and that MSHA has jurisdiction over its operations. The Supreme Court denied certiorari. The company was not exercising bad faith in denying entry. Petitioner further states that lack of negligence justifies a reduction in penalty.

Therefore, it is ORDERED that the motion to approve settlement is GRANTED and Respondent is ORDERED to pay \$200 within 30 days of the date of this order.

James A. Broderick  
Chief Administrative Law Judge