

CCASE:
SOL (MSHA) V. MAGMA COPPER
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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. DENV 79-452-PM A/O No. 02-00842-05004
v.	Docket No. DENV 79-453-PM A/O No. 02-00842-05006
MAGMA COPPER CO., RESPONDENT	San Manuel Mine

DECISION
ORDER TO PAY

Appearances: Marshall Salzman, Esq., Office of the Solicitor,
U.S. Department of Labor, San Francisco, California,
for Petitioner, MSHA N. Douglas Grimwood, Esq.,
Twitty, Siegwright and Mills, Phoenix, Arizona,
for Respondent, Magma Copper Company

Before: Judge Merlin

The above-captioned proceedings are two petitions for the assessment of civil penalties for 19 alleged violations of the Act.

At the hearing on February 20, 1980, the docket numbers were consolidated for hearing and decision pursuant to agreement of counsel.

Citations 376617, 376618, 376620 and 376702

These citations deal with inadequate guarding for rod mills. 30 CFR 57.14-1. At the hearing, the Solicitor moved to modify Citation No. 376617 to include the conditions set forth in the other citations and to vacate the other citations. The Solicitor further moved to impose a penalty of \$178 for Citation No. 376617, the amount originally assessed for the citations. This was the first inspection of this mine. From the bench, I granted the Solicitor's motions, assessed a penalty of \$178 for Citation No. 376617, and vacated the remaining citations.

Citations 376713, 376714, 376715, 376716, 376717,
376718, 376719, 377140, 376711, 377141, and 377142

These citations deal with inadequate guarding for ball mills. 30 CFR 57.14-1. At the hearing, the Solicitor moved to modify Citation

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No. 376713 to include the conditions set forth in the other citations and to vacate these other citations. The Solicitor further moved to impose a penalty of \$508 for Citation No. 376713, the amount originally assessed for these citations. This was the first inspection of this mine. From the bench, I granted the Solicitor's motions, assessed a penalty of \$508 for Citation No. 376713, and vacated the remaining citations.

Citations 377137, 377138 and 377139

These citations deal with inadequate guarding for regrind mills. 30 CFR 57.14-1. At the hearing, the Solicitor moved to modify Citation No. 377137 to include the conditions set forth in the other citations and to vacate the other citations. The Solicitor further moved to impose a penalty of \$152 for Citation No. 377137, the amount originally assessed for these citations. This was the first inspection of this mine. From the bench, I granted the Solicitor's motions, assessed a penalty of \$152 for Citation No. 377137, and vacated the remaining citations.

Citation 376850

The Solicitor moved to assess a civil penalty of \$98 (the originally assessed amount) for Citation No. 376850, which was issued for a violation of 30 CFR 57.17-1. From the bench, I granted the Solicitor's motion and assessed a penalty of \$98 for this citation, since I concluded it was consistent with the statutory criteria.

ORDER

The rulings and decisions issued from the bench are hereby AFFIRMED.

The operator is ORDERED to pay \$936 within 30 days from the date of this decision.

Paul Merlin
Assistant Chief Administrative Law Judge