

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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16 JUL 1980

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

v.

U. S. STEEL CORP.,
Respondent

: Civil Penalty Proceedings
:
: Docket No. PITT 79-186-P
: A.O. No. 36-05018-02012
:
: Docket No. PITT 79-185-P
: A.O. No. 36-05018-03010
:
: Cumberland Mine

DECISIONS APPROVING SETTLEMENTS

These civil penalty proceedings were initiated by the petitioner against the respondent through the filing of proposals for assessment of civil penalties pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking civil penalty assessments for seven alleged violations of certain mandatory safety standards promulgated pursuant to the Act.

Respondent filed timely answers in the proceedings and the cases were consolidated for hearing in Pittsburgh, Pennsylvania, on March 19, 1980. Subsequently, by motion filed June 17, 1980, petitioner now seeks approval of a proposed settlement negotiated by the parties as follows.

Docket No. PITT 79-186-P

This docket concerns five citations which the parties propose to dispose of by settlement. The citations, initial assessments, and the proposed settlement amounts are as follows:

<u>Citation No.</u>	<u>Date</u>	<u>30 CFR Standard</u>	<u>Assessment</u>	<u>Settlement</u>
235178	11/30/78	77.701	\$ 160.00	\$ 160.00
235179	11/20/78	77.506	90.00	90.00
235180	11/27/78	77.902	160.00	160.00
235621	11/30/78	77.508	160.00	160.00
235622	11/30/78	77.506	78.00	78.00
			<u>\$ 688.00</u>	<u>\$ 688.00</u>

Discussion

The proposed settlement is for 100% of the initial proposed assessments made by MSHA for the violations in question. In support of the proposed settlement, petitioner has submitted information pertaining to the six statutory factors set forth in section 110(i) of the Act. In addition, petitioner has submitted a full and complete discussion and analysis of the facts and circumstances surrounding each of the citations, including the factors of gravity, negligence, and good faith compliance. After review and consideration of the arguments presented in support of the proposed settlement, I find that it is reasonable and in the public interest, and that it should be approved.

Order

Pursuant to Commission Rule 30, 20 CFR 2700.30, petitioner's motion is granted, settlement is approved, and respondent is ordered to pay civil penalties in the amount of \$688.00 in satisfaction of the aforesaid citations, payment to be made to MSHA within thirty (30) days of the date of this decision and order. Upon receipt of payment, this matter is dismissed.

Docket No. PITT 79-185-P

This docket concerns two citations, 7-0049, 12/13/77, 30 CFR 70.250(a), and 235657, 11/13/78, 30 CFR 77.1713(d), for which civil penalties of \$72 and \$66 were initially proposed by the petitioner. Petitioner's motion seeks approval of a settlement for citation 7-0049, for the full amount of the \$72 assessment, and in support of its proposal petitioner has submitted a full and complete discussion of the facts and circumstances surrounding the citation, including information with respect to the six statutory factors found in section 110(i) of the Act.

With regard to citation 235657, petitioner states that it has been vacated because no violation of the cited standard occurred, and no civil penalty should be assessed,

Order

Pursuant to Commission Rule 30, 29 CFR 2700.30, settlement is approved and respondent is ordered to pay a civil penalty in the amount of \$72 in satisfaction of the citation in question, payment to be made to MSHA within thirty (30) days of the date of this decision and order. Upon receipt of payment, this matter is dismissed. The vacated citation is dismissed.


George A. Koutras
Administrative Law Judge

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