

CCASE:
SOL (MSHA) V. FILLMORE INDUSTRIES
DDATE:
19801114
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 Proceeding Docket No. YORK 80-66-M A.C. No. 27-00222-05001
---	--

v. Fillmore Pit and Plant

FILLMORE INDUSTRIES, INC.,
RESPONDENT

DECISION

Appearances: Frederick E. Dashiell, Esq., Office of the Solicitor,
U.S. Department of Labor, for Petitioner Arthur C.
Fillmore, Concord, New Hampshire, for Respondent

Before: Judge Melick

This case is before me upon a petition for assessment of civil penalty under section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq., the "Act." At hearing on August 12, 1980, in Manchester, New Hampshire, Petitioner submitted a proposal for settlement requesting approval of a 50-percent penalty reduction. I approved the settlement proposal at hearing and I reaffirm that decision at this time.

This case involves four citations (Nos. 216614, 216615, 216616, and 216617) each alleging one violation of 30 C.F.R. 56.14-1 (requiring the guarding of exposed moving machine parts), and each initially assessed at \$40. Petitioner proposes a \$20 reduction in penalty for each citation because of the operator's confusion over the implementation of the standard. Respondent erroneously believed that guards were not needed if it had skirtboards located along the edge of the beltline. Respondent also purchased the equipment with the understanding from its manufacturer that it was in compliance with safety standards.

I accept Petitioner's representations. Considering the documentary evidence submitted in light of the criteria set forth in section 110(i) of the Act I conclude the settlement is appropriate.

~3298

WHEREFORE, I ORDER Respondent to pay the agreed penalty of \$80 within 30 days of this decision.

Gary Melick
Administrative Law Judge