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SOL (MSHA) v. QUARTO MINING  
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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. LAKE 80-385  
A/O No. 33-02624-03106

v.

Powhatan No. 7 Mine

QUARTO MINING COMPANY,  
RESPONDENT

DECISION

ORDER TO PAY

This case consists of a petition for the assessment of civil penalties for two alleged violations of the Act. The Solicitor has filed a motion to approve a settlement for one of the two citations.

Citation 1009643 was issued for an alleged violation of 30 CFR 75.316. On September 8, 1980 a hearing was held in Secretary of Labor v. Nacco Mining Company, Quarto Mining Company and The North American Coal Corporation, LAKE 80-251, et al. in which the same provision of respondent's dust control plan at issue in this citation was litigated. In those cases a decision dated September 22, 1980 held invalid this provision of the dust control plan. The decision in LAKE 80-251 is dispositive of this citation.

Citation 9938290 was issued for a violation of 30 CFR 70.100(b). The parties have proposed a settlement of \$150 for this violation. After having reviewed this citation I approve the recommended settlement.

ORDER

Citation 1009643 is hereby VACATED and the petition to assess a civil penalty is DISMISSED insofar as it concerns this citation.

The operator is ORDERED to pay \$150 within 30 days from the date of this decision.

Paul Merlin  
Assistant Chief Administrative Law Judge