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SOL (MSHA) v. EL-BOW 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),
ON BEHALF OF JACK HATTER,
COMPLAINANTS

Complaint of Discrimination

Docket No. WEVA 81-318-D

Lick Branch No. 1 Mine

v.

EL-BOW MINING, INC.,
RESPONDENT

DECISION AND ORDER APPROVING SETTLEMENT

Statement of the Case

This is a discrimination proceeding filed by the complainant against the respondent pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977, for an alleged act of discrimination which purportedly occurred sometime in November, 1980. The matter was scheduled for hearing on September 16, 1981 in Bluefield, West Virginia, but the hearing was continued at the request of the parties so that a proposed settlement could be submitted for my consideration.

By joint motion filed August 18, 1981, complainant filed a motion to withdraw its complaint and the parties submitted their proposed settlement disposition, the terms of which are as follows:

1. Upon execution of this agreement, respondent will post immediately on the mine bulletin board, or in a conspicuous place where notices to employees are customarily posted and maintain for a period of 14 consecutive days from the date of posting, the Notice attached hereto and made a part hereof. Said Notice is to be signed by a responsible official of the respondent and the date of actual posting is to be shown thereon.
2. Respondent will comply with the terms and provisions of said Notice.
3. Applicant will, upon respondent's execution and completion of performance of this agreement, withdraw El-Bow Mining Inc.'s complaint of discrimination filed with the Department of Labor.

Respondent agrees to pay a civil penalty in the amount of \$200.

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4. The execution of this settlement agreement by the respondent shall not be construed as an admission of violation of the Federal Mine Safety and Health Act of 1977.

Discussion

The parties are in agreement that the proposed settlement disposition of this matter is in their interest, and after review and consideration of all of the pleadings filed in this matter, including the terms of the settlement, I conclude that the settlement disposition is a reasonable and fair resolution of the dispute and that approval of same is in the public interest.

ORDER

In view of the foregoing the motion to withdraw is GRANTED and the proposed settlement is APPROVED, and upon full compliance and completion with the terms thereof as set forth above, this matter is DISMISSED.

George A. Koutras
Administrative Law Judge