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SOL (MSHA) V. VALLEY CAMP OF UTAH
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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)
v.

Civil Penalty Proceeding

Docket No. WEST 82-118
A/O No. 42-01279-03060 V

VALLEY CAMP OF UTAH, INC.,
RESPONDENT

Belina No. 1 Mine

DECISION

At a hearing in Salt Lake City on or about March 23, 1983, the parties moved to approve settlement of the captioned penalty proceeding. The single violation was bottomed on the charge that a continuous miner operator had committed a condoned violation of the operator's approved control plan by working his continuous miner 30 feet inby the last row of permanent roof supports. The settlement proposed was \$1,000.

Based on an independent evaluation and de novo review of the circumstances the trial judge rejected the settlement on the ground it was insufficient to deter future violations and insure voluntary compliance either by management or the contract miners. Whereupon, the parties agreed to submit a proposal to increase the amount of the penalty to \$2,500 and to make a matter of record a reprimand of the two individuals responsible for the violation together with an assurance from management that recurrence of such conduct would be the subject of disciplinary action, including discharge.

It is my firm belief, often expressed, that unless and until contract or day-rate miners (rank-and-file miners) are sanctioned for knowing violations of the mandatory health and safety standards the purpose and policy of the Mine Safety Law will never fully be achieved. The Secretary and the Unions, of course, do not agree. Nevertheless, I will continue to use the limited power vested in my office to impress on rank-and-file miners the vital necessity for compliance with mining practices that time and experience have shown to be essential to the preservation of the industry's and the nation's most precious resource--the miner him/herself.

The premises considered, I find the renewed motion to approve settlement is in accord with the purposes and policy of the Act.

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Accordingly, it is ORDERED that the motion be, and hereby is, GRANTED. It is FURTHER ORDERED that the operator pay the amount of the penalty agreed upon, \$2,500 on or before Friday, June 24, 1983 and that subject to payment the captioned matter be dismissed.

Joseph B. Kennedy
Administrative Law Judge