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MONTEREY COAL V. SOL (MSHA)
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

MONTEREY COAL COMPANY,
CONTESTANT

v.

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

Contest of Citation

Docket No: LAKE 80-413-R
Citation No. 775259 9/11/80

Monterey No. 1 Mine

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

v.

MONTEREY COAL COMPANY,
RESPONDENT

Civil Penalty Proceeding

Docket No: LAKE 81-59
A/O No: 11-00726-03060

No. 1 Mine

DECISION

Before: Judge Moore

The above cases have been remanded to me for the purpose of assessing a penalty. Inasmuch as the Commission has already affirmed the citation, only Docket No: LAKE 81-59 is actually before me.

The parties have stipulated as to Monterey's size, history of violation, negligence, good faith and gravity. As to gravity, it is interesting to note that despite the government appellate counsel's representations to the Commission as to the safety concerns of MSHA, the assessment office assessed only \$100 with no points for gravity. In my opinion a penalty of \$50 is appropriate.

Monterey is accordingly ORDERED to pay MSHA, within 30 days, a civil penalty in the amount of \$50.

Charles C. Moore, Jr.
Administrative Law Judge