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SOL (MSHA) V. RAMAH MINES
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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. WEST 83-22-M
A.C. No. 05-03663-05501

v.

J Ramah Mine a/k/a Ramah Mill

RAMAH MINES COMPANY,
RESPONDENT

DECISION

Appearances: James H. Barkley, Esq., Office of the Solicitor,
U.S. Department of Labor, Denver, Colorado,
for Petitioner
(Respondent failed to appear)

Before: Judge Carlson

A hearing on the merits in this civil penalty proceeding was set for February 8, 1984 at 1:30 p.m. in the Commission's hearing room in Denver, Colorado. The hearing was duly convened as scheduled, but no appearance was made on behalf of the respondent operator. At 2:05 p.m. the Secretary was permitted to put on his case through the person of Mr. Michael Lynham, a metal-nonmetal mine inspector. Lynham's testimony indicated that the Ramah Mine and Mill, at the time of his April 7, 1981 inspection, had no telephone or radio as a means of emergency communication, as required by the mandatory safety standard published at 30 C.F.R.

55.18-13. He further testified that the mine no longer operates. The Secretary rested at 2:20 p.m., at which time counsel moved for the entry of a default judgment. The motion was taken under advisement and the hearing was adjourned.

By order issued on February 9, 1984, respondent's representative was notified that a decision affirming the citation and assessing the \$20.00 civil penalty proposed by the Secretary would be entered by default unless respondent showed good cause for its failure to appear. The time for response is now long past and nothing has been filed.

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ORDER

Accordingly, respondent is declared to be in default for failure to appear; citation number 574164 is affirmed; and respondent shall pay within 30 days of the date of this decision a civil penalty of \$20.00.

John A. Carlson
Administrative Law Judge