

CCASE:
SOL (MSHA) V. ATLAS MINERALS
DDATE:
19840820
TTEXT:

~1991

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

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

v.

ATLAS MINERALS,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. WEST 84-33-M
A.C. No. 42-00800-05504

Moab Mill

DECISION APPROVING SETTLEMENT

Appearances: James H. Barkley, Esq., Robert J. Lesnick, Esq., and
Peggy Miller, Esq., Office of the Solicitor, U.S.
Department of Labor, Denver, Colorado,
for Petitioner;

James A. Holtkamp, Esq., and John A. Snow, Esq.,
VanCott, Bagley, Cornwall & McCarthy, Salt Lake
City, Utah,
for Respondent.

Before: Judge Morris

This is a civil penalty proceeding initiated by the
petitioner against the respondent in accordance with Section
110(a) of Federal Mine Safety and Health Act of 1977, 30 U.S.C.
820(a). The civil penalty is for the alleged violation of a
mandatory safety standard promulgated pursuant to the Act.

At a hearing in Moab, Utah on August 23, 1984, in related
cases the parties advised the judge that they had reached an
amicable settlement. The parties now seek approval of their
proposed settlement.

Citation 2008174 alleges a violation of 30 C.F.R.
57.9-88(a). The citation proposed an original penalty of \$300.
The parties now seek to amend the citation by changing its
designation from "104-d-1" to "104-a." The parties agree the
original penalty should be assessed.

Discussion

In support of the motion petitioner states he agrees with
and relies on the assessment made by his Office of Assessments in
evaluating the statutory criteria for assessing the penalty.

~1992

I find the proposed settlement is reasonable and it should be approved.

Accordingly, I enter the following:

ORDER

1. The settlement agreement is approved.
2. The citation is amended to change the designation from "104-d-1" to "104-a."
3. Citation 2008174 and the penalty of \$300 are affirmed.
4. Respondent is ordered to pay the sum of \$300 within 40 days of the date of this order.

John J. Morris
Administrative Law Judge