

CCASE:
SOL (MSHA) V. PACIFIC COAST BUILDING
DDATE:
19850312
TTEXT:

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 84-32-M
A.C. No. 26-00093-05506

v.

Pabco Gypsum-Apex Quarry

PACIFIC COAST BUILDING
PRODUCTS, INC.,
RESPONDENT

DECISION

Appearances: Marshall P. Salzman, Esq., Office of the Solicitor,
U.S. Department of Labor, San Francisco, California,
for Petitioner;
E. David Stroebing, Esq., Las Vegas, Nevada,
for Respondent.

Before: Judge Morris

This is a civil penalty proceeding initiated by the
petitioner against respondent in accordance with Section 110(a)
of the Federal Mine Safety and Health Act of 1977, 30 U.S.C.
820(a).

Citation 2088401 alleges respondent violated 30 C.F.R.
55.12-17 relating to power circuits. The Secretary originally
assessed a proposed penalty of \$63.00 for this violation.

At the hearing the parties stipulated that a violation of
the standard occurred. Further, it was agreed that the last two
sentences of the citation should be vacated.

The parties further agreed that respondent is a
moderate-sized company with a low history of violations. In
addition, the citation was abated in good faith.

It was further agreed that the imposition of a penalty would
not affect the ability of the company to remain in business.
Further, it was agreed there was no negligence on the part of the
operator.

Considering all of the statutory criteria, I deem that a
civil penalty of \$40.00 is appropriate for this violation.

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Accordingly, I enter the following:

ORDER

1. Citation 2088401 and a penalty of \$40.00 are affirmed.
2. Respondent is ordered to pay the sum of \$40.00 within 40 days of the date of this order.

John J. Morris
Administrative Law Judge