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SOL (MSHA) v. IDEAL BASIC INDUSTRIES
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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. CENT 85-13-M
A.C. No. 34-0023-05505

v.

Ada Quarry & Plant

IDEAL BASIC INDUSTRIES, INC.,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This proceeding concerns civil penalty proposals filed by the petitioner against the respondent pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking civil penalty assessments for nine alleged violations of certain mandatory safety standards found in Part 56, Title 30, Code of Federal Regulations. The respondent contested the proposed assessments, and the case was scheduled for hearing in Oklahoma City, Oklahoma. However, the hearing was continued after the petitioner advised me that the parties had reached a settlement of the case.

By motion filed May 6, 1985, the parties submitted their proposed settlement pursuant to Commission Rule 30, 29 C.F.R. 2700.30, and the citations, initial assessments, and the proposed settlement dispositions are as follows:

Citation No.	Date	30 CFR	Assessment	Settlement
2227753	7/24/84	56.11-1	\$ 85	\$ 85
2228751	8/13/84	56.12-16	136	136
2228752	8/13/84	56.12-16	112	112
2228755	9/10/84	56.9-6	112	112
2228757	9/11/84	56.3-5	98	98

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2228758	9/11/84	56.11-1	\$ 85	\$ 85
2228761	9/11/84	56.14-1	112	112
2228762	9/11/84	56.9-87	136	vacated
2228763	9/11/84	56.9-87	136	vacated
			\$1012	\$ 740

Discussion

The petitioner has vacated two of the citations on the ground of insufficient evidence to prove the violations. With regard to the remaining seven citations, the proposed settlement is for 100% of the initial penalty assessments proposed by the petitioner for the violations in question. In support of the proposed settlement disposition of these citations, the petitioner has submitted full information concerning the six statutory civil penalty criteria found in section 110(i) of the Act. Petitioner has also submitted a full discussion and disclosure as to the facts and circumstances surrounding the issuance of the violations, and the parties are in agreement that the proposed settlement disposition is in the public interest. I take particular note of the fact that the respondent has no prior history of violations within the 24-month period preceding the issuance of the citations in question, and that abatement was achieved immediately or within a matter of hours.

Conclusion

After careful review and consideration of the pleadings, arguments, and submissions in support of the petitioner's motion to approve the proposed settlement of this case, I conclude and find that the proposed settlement disposition is reasonable and in the public interest. Accordingly, pursuant to 29 C.F.R. 2700.30, petitioner's motion is GRANTED and the settlement is APPROVED.

ORDER

The respondent IS ORDERED to pay civil penalties in the settlement amounts shown above for the seven violations in question, and payment is to be made to MSHA within thirty (30) days of the date of this decision and order. Upon receipt of payment, this case is dismissed.

George A. Koutras
Administrative Law Judge