

CCASE:

SOL (MSHA) v. PENNSYLVANIA 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. PENN 84-216  
A.C. No. 36-02405-03572

v.

Greenwich Collieries  
No. 1 Mine

PENNSYLVANIA MINES CORP.,  
GREENWICH COLLIERIES  
DIVISION,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On September 23, 1985, the Secretary of Labor filed a motion for approval of a settlement reached by the parties in this case. The violations were originally assessed at \$4,250 and the parties propose to settle for \$1,500.

Two orders and one citation are involved in this docket. One order and one citation have been contested in separate dockets (PENN 84-151-R and PENN 84-152-R). The contested orders and citation were issued about 6 weeks following an explosion at the mine which was closed by a 103(k) order. The 103(k) order required that in the event any hazard was found, a plan would be submitted to MSHA for corrective action. As of April 3, 1984, modifications had been permitted pursuant to such plans about 40 times. On that date a mapping team encountered an explosive mixture of methane which was corrected by the installation of curtains. A plan was not submitted or approved, although an MSHA task force member was aware of the hazard, and understood that it would be corrected by mine management. The foreman who corrected the condition was acting in good faith, but because a plan was not submitted for approval, a citation was issued for a violation of section 103(k) of the Act. It was originally assessed at \$2,000, and the parties propose to settle for payment of \$800.

An order was issued under section 104(d)(1) on April 5/6, 1984 charging a violation of 30 C.F.R. 75.324 because two

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company foremen observed a hazardous condition and corrected it without recording the findings and action in the mine examiner's book. However it was recorded in the mine foreman's book. It is further noted that the foremen did not initially observe the condition but were informed of it by the mapping team referred to above. The violation was originally assessed at \$1,500. The parties propose to settle for \$200. The violation charged in the other order not separately contested is of 30 C.F.R. 75.317 because a flame safety lamp was not disassembled, cleaned, serviced and tested before it was used underground. The violation was originally assessed at \$750 and the parties propose to settle for \$500.

Respondent is a medium to large operator with an average history of prior violations. The violations were abated in good faith.

I have considered the violations charged in the orders and citation and the information contained in the motion in the light of the criteria in section 110(i) of the Act. I conclude that the proposed settlement will effectuate the purposes of the Act and should be approved.

Accordingly, the settlement is APPROVED and Respondent is ORDERED TO PAY the sum of \$1,500 within 30 days of the date of this order.

James A. Broderick  
Administrative Law Judge