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SOL (MSHA) v. BEAR COAL  
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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 PROCEEDINGS

Docket No. WEST 85-51  
A.C. No. 05-03787-03530

v.

Docket No. WEST 85-52  
A.C. No. 05-03787-03531

BEAR COAL COMPANY, INC.,  
RESPONDENT

Bear No. 3 Mine

DECISION APPROVING SETTLEMENT

Appearances: Robert J. Lesnick, Esq., Office of the Solicitor,  
U.S. Department of Labor, Denver, Colorado,  
for Petitioner;  
Stephen B. Shapiro, Esq., Morrato, Bieging,  
Burrus & Colantuno, Denver, Colorado,  
for Respondent.

Before: Judge Carlson

These consolidated civil penalty cases were fully heard upon the merits on August 2, 1984, in Denver, Colorado. Before the briefs were due the parties asked for more time in order to work out a possible settlement.

The parties have now submitted a settlement agreement which, if approved, would resolve all pending issues.

Specifically, the parties agree that citation number 2336348 and citation number 2336329 arose out of the same factual situation and were therefore improperly duplicative. They therefore propose that citation number 2336348 be vacated.

They also agree that the penalty assessments for the remaining citations should be modified as follows:

Citation No.	Original Proposed Penalty	Modified Penalty
2336329	\$ 600.00	\$ 125.00
2336350	750.00	550.00
2336510	650.00	500.00

Having heard all of the evidence in this case and considered the representations made in the settlement agreement, I am convinced that the terms of the agreement are reasonable and appropriate.

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Accordingly, the settlement agreement is ORDERED approved in its entirety. Citation no. 2336348 is ORDERED vacated, and respondent Bear Coal Company is ORDERED to pay a total civil penalty of \$1,175.00 for the remaining three citations within 40 days of the date of this decision.

John A. Carlson  
Administrative Law Judge