

CCASE:  
SOL (MSHA) V. SUTHERLAND 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 PROCEEDING

Docket No. VA 85-33  
A.C. No. 44-05831-03524

v.

Mine No. 47

SUTHERLAND COAL COMPANY,  
RESPONDENT

ORDER APPROVING SETTLEMENT

Before: Judge Broderick

On December 24, 1985, the Secretary of Labor filed a motion for approval of a settlement reached by the parties in this case. The two violations involved were originally assessed at \$3450, and the parties propose to settle for the amount assessed with a provision for extended payment of the assessment.

The violations were very serious, having resulted in or contributed to the fatal injury of a mine foreman, who was the son of the mine owner. The motion states that the fatal accident resulted from the operator's reckless disregard for safety. Respondent was a small operator, with a limited history of prior violations. The mine was closed following the accident and has not reopened. Respondent states that it can only pay the penalty in installments, and the Secretary has agreed to this.

I conclude that the settlement agreement should be approved.

Therefore, IT IS ORDERED that the settlement is APPROVED. It is further ordered that Respondent shall pay the sum of \$3450 for the violations alleged. Payment shall be made as follows:

Respondent shall pay the sum of \$143.75 on or before February 1, 1986, and a like sum on the first day of each month thereafter until the total amount is paid.

James A. Broderick  
Administrative Law Judge