

CCASE:  
SOL (MSHA) V. JIM WALTER RESOURCES  
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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. SE 85-132  
A.C. No. 01-00328-03585

v.

Bessie Mine

JIM WALTER RESOURCES, INC.,  
RESPONDENT

DECISION APPROVING SETTLEMENTS  
ORDER TO PAY

Before: Judge Merlin

The Solicitor has filed a motion to approve settlements of the three violations involved in this matter. The originally assessed amounts were \$15,000, and the proposed settlements are for \$9,500.

Order No. 2482343 cites the operator for a violation of 30 C.F.R. 77.500 because work was performed inside a wall-mounted, 520-volt, a.c., three-phased switchbox while the box was energized and the violation contributed to a fatal accident. An employee was working on energized terminals inside the box when he was electrocuted. Had the box been deenergized and locked out, the accident would not have occurred. A settlement is recommended for the original amount of \$5,000. I approve this settlement.

Citation No. 2483515 cites the operator for a violation of 30 C.F.R. 77.505 because a cable, supplying power to a distribution center at the motor pit, had not been installed through proper fittings. This violation was serious because it contributed to the accident. However, the Solicitor advises that if the wall mounted switchbox had been deenergized and locked out, (the first violation discussed above) there would have been no electrical exposure to the electrician who was killed. In other words, this citation is part and parcel of the entire situation for which Order 2482343 sets forth the principal violation. I accept the recommended settlement of \$2,000.

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Order No. 2482352 cites the operator for a violation of 30 C.F.R. 77.501 because the pole-mounted power-disconnecting devices which controlled the power to the safety switchbox, was not disconnected. Here again, the Solicitor advises that this condition would not have been a violation if the wall mounted switchbox had been deenergized and locked out (the first violation discussed above). For the reasons already set forth I accept the recommended settlement of \$2,500.

The operator is ORDERED TO PAY \$9,500 within 30 days from the date of this decision.

Paul Merlin  
Chief Administrative Law Judge