

CCASE:
SOL (MSHA) V. CO-OP MINING
DDATE:
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TTEXT:

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. WEST 85-165
A.C. No. 42-01697-03540

v.

Bear Canyon No. 1 Mine

COÖP MINING COMPANY,
RESPONDENT

DECISION

Appearances: James H. Barkley, Esq., Office of the Solicitor,
U.S. Department of Labor, Denver, Colorado,
for the Petitioner;
Carl E. Kingston, Esq., Co-op Mining Company,
Salt Lake City, Utah,
for the Respondent.

Before: Judge Morris

The Secretary of Labor, on behalf of the Mine Safety and Health Administration, (MSHA), charges respondent with violating safety regulations promulgated under the Federal Mine Safety and Health Act, 30 U.S.C. 801 et seq., (the Act).

After notice to the parties, a hearing on the merits commenced in Salt Lake City, Utah on February 11, 1986.

At the hearing the parties stated that they had reached a settlement agreement. No person objected to the proposal.

The citations, the standards allegedly violated, the original assessments and the proposal dispositions are as follows:

Citation Number	Standard C.F.R., Title 30	Assessment	Settlement
2501153	77.205(a)	\$1000	Vacate
2501155	48.7(c)	2000	Vacate
2501157	48.5(a)	400	Vacate
2072270	77.209	5000	\$5000
2072271	77.1710(g)	4000	3000
2072272	48.5(a)	2000	Vacate

Discussion

In support of his motion to vacate Citations numbered 2501155, 2501157 and 2072272 the Secretary states that the alleged violations of the training requirement involved a single miner. It is further indicated that the miner in question received such training but that fact was improperly recorded.

In support of his motion to vacate Citation numbered 2501153 the Secretary states the citation is redundant and such alleged violations are within the allegations contained in Citation numbered 2072270.

I have reviewed the proposed settlement and I find it is in order and in the furtherance of the public interest.

Accordingly, I enter the following:

ORDER

1. Citation 2501153 and all penalties therefor are vacated.
2. Citation 2501155 and all penalties therefor are vacated.
3. Citation 2501157 and all penalties therefor are vacated.
4. Citation 2072270 and the proposed penalty of \$5,000 are affirmed.
5. Citation 2072271 and the penalty, as amended, in the amount of \$3,000 are affirmed.
6. Citation 2072272 and all penalties therefor are vacated.

John J. Morris
Administrative Law Judge