

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

AUG 13 1986

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), :
Petitioner : Docket No. SE 86-67
: A.C. No. 01-01247-03701
: :
v. : No. 4 Mine
: :
JIM WALTER RESOURCES, INC., :
Respondent :

DECISION

Appearances: William Lawson, Esq., Office of the Solicitor, U.S. Department of Labor, Birmingham, Alabama, for Petitioner; R. Stanley Morrow, Esq., and Harold D. Rice, Esq., Birmingham, Alabama, for Respondent.

Before: Judge Merlin

This case is a petition for the assessment of three civil penalties filed by the Secretary of Labor against Jim Walter Resources, Inc.

At the hearing the Solicitor advised that the parties proposed to settle the violations for the full assessed amounts as follows: Citation 2605565 was issued for a violation of 30 C.F.R. § 75.517 because the power cable from the scoop charger to batteries that were being charged on the 010 section,, was not insulated adequately and fully protected. The gravity of the violation was serious because a miner contacting the bare, energized conductors could receive a serious electrical shock. In addition, the violation resulted from the operator's negligence. The proposed settlement was for the original amount of \$800.

Citation No. 2605566 was issued for a violation of 30 c.f.r. § 75.400 because combustible materials were permitted to accumulate at a scoop charging station. The gravity of the violation was serious, because oil, coal and oil-soaked coal were permitted to accumulate on the footwall. Power cables were coiled on top of the combustible materials which could have provided an ignition source for the accumulation. A fire could cause a miner in the area to be exposed to smoke inhalation and

other fire hazards. The operator was plainly negligent in allowing this condition to occur. The proposed settlement was for the original amount of \$800.

Citation No. 2605567 was issued for a violation of 30 C.F.R. § 75.512 because the scoop charger on the 010 section was not maintained in a safe operating condition. The violation was serious, because the charger had been hit, causing the control panels on each side to be loose, exposing the bare electrical components inside the charger. Furthermore, the doors were damaged and would not close. A miner contacting the bare components could receive a serious electrical shock. The operator was negligent because the violation was obvious. The proposed settlement was for \$800.

Information was provided regarding the remaining statutory criteria set forth in section 110(i).

As I advised operator's counsel at the hearing, the occurrence of three such serious violations on the same day in the same mine is a cause for very serious concern. Greater care must be taken. If a case such as this involving this operator comes before me in the future I will not approve settlements of even these substantial amounts because it will then be clear that even greater deterrence in the form of higher penalties is needed.

Because the recommended settlements are for substantial amounts which appear adequately to effectuate the statutory purposes in this instance, said settlements are APPROVED and the operator is ORDERED TO PAY \$2400 within 30 days from the date of this decision.

A handwritten signature in black ink that reads "Paul Merlin". The signature is written in a cursive, flowing style with a large initial "P" and "M".

Paul Merlin
Chief Administrative Law Judge

Distribution:

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