

CCASE:
SOL (MSHA) V. KRIEGER COAL
DDATE:
19861001
TTEXT:

~1509

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. PENN 86-197
A.C. No. 36-02735-03501

v.

Krieger Coal, Inc.

KRIEGER COAL, INCORPORATED,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a motion to approve settlement of the one violation involved in this case. The proposed settlement is for \$30.

The Solicitor's motion discusses the violation in light of the six criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. The operator was cited for violation of 30 C.F.R. 48.8 because two miners were at work without having received annual refresher training. The Solicitor represents that a reduction in the proposed penalty is justified because of the precarious financial condition of the operator. According to the documents submitted with this motion, the operator lost more than \$106,000 in 1985 and has mined no coal during 1986. The parties assert that payment of the originally assessed penalty would hamper the operator's efforts to remain in business.

The representations and recommendations of the Solicitor are accepted. However, in the future, necessary training must be provided. Such a low penalty cannot be routinely approved for this type of violation regardless of the operator's financial condition.

Accordingly, the motion to approve settlement is GRANTED and the operator is ORDERED TO PAY \$30 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge