

CCASE:
SOL (MSHA) V. AMAX CHEMICAL
DDATE:
19861016
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. CENT 84-68-M
A.C. No. 24-00174-05515

v.

Docket No. CENT 84-69-M
A.C. No. 29-00174-05516

AMAX CHEMICAL CORPORATION,
RESPONDENT

Amax Mine & Mill

ORDER LIFTING STAY
AND
DECISION APPROVING SETTLEMENT

Appearances: Jack F. Ostrander, Esq., Office of the
Solicitor, U.S. Department of Labor, Dallas,
Texas for Petitioner; Charles C. High, Jr., Esq.,
Kemp, Smith, Duncan & Hammond, El Paso, Texas,
for Respondent.

Before: Judge Melick

These cases are before me upon petitions for assessment of civil penalty under Section 110(d) of the Federal Mine Safety and Health Act of 1977 (the Act). Petitioner had filed motions to approve settlement agreements and to dismiss the cases proposing a reduction in penalties from \$2,925 to \$445. These motions were denied by the undersigned and hearings on the merits were held. Following those hearings and the subsequent release by the Commission of the decision in Secretary v. Amax Chemical Corporation, 8 FMSHRC ¶¶¶¶ (Docket No. CENT 84-91-AM) the parties renewed their request for settlement. I have considered the testimony and documentation submitted and I have evaluated the effect of the Commission's decision in Amax, supra, on these cases. Under the circumstances I now conclude that the proffered settlement is appropriate.

WHEREFORE, the Stay Orders issued June 18, 1985 are lifted, the motions for approval of settlement are GRANTED, and it is ORDERED that Respondent pay a penalty of \$445 within 30 days of this order. The deletion of "significant

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and substantial" findings and the vacation of citations set forth in the Motion for Settlement are accordingly also approved.

Gary Melick
Administrative Law Judge