

CCASE:  
SOL (MSHA) V. QUARTO MINING  
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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. LAKE 85-17  
A.C. No. 33-01157-03673

v.

Powhatan No. 4

QUARTO MINING COMPANY,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On October 30, 1986, the Secretary filed a motion for approval of a settlement reached by the parties in this case. The violations were originally assessed at \$2700 and the parties propose to settle for \$800.

Two violations are charged in this Docket, both charging violations of 30 C.F.R. 70.100(a) because based on dust samples collected, the average concentration of respirable dust in the working environment of two designated occupations exceeded 2 milligrams per cubic meter of air (the first violation charged that the average concentration was 4.9 mg/m<sup>3</sup>; the second that it was 2.3 mg/m<sup>3</sup>).

The motion states that the penalty reduction is based on the fact that Respondent was in the process of revising its dust control plan at the time the citations were issued (June 14, 1984). A new plan was submitted in July 1984, and it has been successful in reducing respirable dust violations. Respondent has a favorable history of prior violations at the subject mine. I have considered the motion in the light of the criteria in section 110(i) of the Act, and conclude that it should be approved.

Accordingly, the settlement is APPROVED and Respondent is ORDERED TO PAY the sum of \$800 within 30 days of the date of this order.

James A. Broderick  
Administrative Law Judge