

CCASE:  
SOL (MSHA) V. BULL MINING  
DDATE:  
19870512  
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. WEVA 86-272  
A.C. No. 46-04266-03529

v.

Meredith Mine

BULL RUN MINING COMPANY,  
INCORPORATED,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This is a civil penalty proceeding filed by the petitioner against the respondent pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking a civil penalty assessment in the amount of \$500 for an alleged violation of mandatory safety standard 30 C.F.R. 75.1101-8(b), as stated in a section 104(d)(1) Citation No. 2710986, issued at the mine on February 12, 1986.

The respondent filed a timely answer and contest, and the case was scheduled for hearing in Morgantown, West Virginia, on May 4, 1987. However, the hearing was cancelled after petitioner's counsel advised me that the case was settled. The petitioner has now filed a motion pursuant to Commission Rule 30, 29 C.F.R. 2700.30, seeking approval of a settlement of the case. The proposed settlement agreement requires the respondent to pay a civil penalty assessment in the amount of \$200 for the violation in question.

Discussion

The record in this case reflects that the petitioner's proposed civil penalty assessment was "specially assessed" at \$500 in accordance with the six statutory criteria found in section 110(i) of the Act as set forth in MSHA's regulations

~936

at 30 C.F.R. 100.3(a). In support of the proposed settlement disposition, the petitioner has submitted a full discussion and disclosure as to the facts and circumstances surrounding the issuance of the citation in question, and a reasonable justification for the reduction of the original proposed civil penalty assessment.

Petitioner states that the citation was issued because of the failure of the respondent to provide two branch lines to supply water to several belt head drives in the event of a fire. The cited safety standard requires two branch lines for a uniform discharge of water to the surface of the belt. While the respondent concedes the existence of a violation and the validity of the section 104(d)(1) "S & S" citation, petitioner states that the respondent represents that the gravity of the violation is mitigated due to the fact that in 1975 it installed a multi-directional sprinkler head on each system to ensure a uniform discharge of water to the belt, and that it did so in response to a concern over the adequacy of fire protection for the subject belt. In view of the adequacy of this sprinkler system, petitioner believes that the respondent is more properly charged with a "moderate" degree of negligence and a reduced level of gravity. Petitioner also states that the respondent timely abated the violation by installing a second branch line for each of the belt head drives.

#### Conclusion

After careful review and consideration of the pleadings, arguments, and submissions in support of the motion to approve the proposed settlement of this case, I conclude and find that the proposed settlement disposition is reasonable and in the public interest. Accordingly, pursuant to 29 C.F.R. 2700.30, the motion IS GRANTED, and the settlement IS APPROVED.

#### ORDER

Respondent IS ORDERED to pay a civil penalty in the amount of \$200 in satisfaction of the citation in question within thirty (30) days of the date of this decision and order, and upon receipt of payment by the petitioner, this proceeding is dismissed.

George A. Koutras  
Administrative Law Judge