

CCASE:
SOL (MSHA) V. BERT BIELZ
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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 PROCEEDINGS

Docket No. WEST 85-154-M
A.C. No. 05-03695-05512 A

v.

Docket No. WEST 85-163-M
A.C. No. 05-03695-05513 A

BERT W. BIELZ, JR.,
and RICHARD MCNEELY,
RESPONDENTS

Silver State Mining Corporation's
Iron Clad Mine

DECISION APPROVING SETTLEMENT

Before: Judge Morris

These are consolidated civil penalty proceedings initiated by the petitioner against respondents in accordance with the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq.

In Docket No. WEST 85-154-M respondent Bielz is charged in Citation 2099741 as an agent of the corporate mine operator with knowingly authorizing, ordering or carrying out the operator's violations of the mandatory safety standards published at 30 C.F.R. 55.5-2 and 55.5-5.

In WEST 85-163-M the same charges in Citation 2099742 are pending against respondent McNeely as an agent of the corporate mine operator.

Under section 110(a) of the Act, the corporate mine operator was assessed a civil penalty of \$1,000 for its violation of 30 C.F.R. 55.5-2 and a civil penalty of \$5,000 for its violation of 55.5-5. See Secretary of Labor (MSHA) v. Silver State Mining Corporation, FMSHRC Docket No. WEST 84-145-M. The case, decided by Commission Administrative Law Judge Gary Melick on April 2, 1987 has not been appealed.

In the present proceedings under section 110(c) of the Act, a civil penalty of \$200 for violating 30 C.F.R. 55.5-2 and a civil penalty of \$2,000 for violating 30 C.F.R. 55.5-5 were proposed against each of the respondents herein.

Respondents now desire to withdraw their contests in these proceedings and they have tendered to the Secretary two separate checks in the amount of \$2,200 each, representing payment in full of the proposed civil penalties herein.

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I have reviewed the proposed settlement and I find it is reasonable and in the public interest. It should be approved.

Accordingly, I enter the following:

ORDER

1. The settlement is approved.

2. In WEST 85Ä154ÄM the Secretary's petition is affirmed. For the violation of Citation 2099741 a civil penalty of \$200 is assessed.

For the violation of Citation 2099742 a civil penalty of \$2,000 is assessed.

3. In WEST 85Ä163ÄM the Secretary's petition is affirmed. For the violation of Citation 2099741 a civil penalty of \$200 is assessed.

For the violation of Citation 2099742 a civil penalty of \$2,000 is assessed.

John J. Morris
Administrative Law Judge