

CCASE:
GREEN COAL V. SOL (MSHA)
DDATE:
19871005
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

GREEN RIVER COAL COMPANY,
CONTESTANT

v.

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
RESPONDENT

CONTEST PROCEEDINGS

Docket No. KENT 87-99-R
Citation No. 9897101; 2/27/87

Docket No. KENT 87-100-R
Citation No. 9897102; 2/27/87

Docket No. KENT 87-101-R
Citation No. 9897103; 2/27/87

Docket No. KENT 87-102-R
Citation No. 9897104; 2/27/87

Docket No. KENT 87-103-R
Citation No. 9897105; 2/27/87

Docket No. KENT 87-104-R
Citation No. 9897106; 2/27/87

Docket No. KENT 87-105-R
Citation No. 9897107; 2/27/87

Docket No. KENT 87-106-R
Citation No. 9897108; 2/27/87

Docket No. KENT 87-107-R
Citation No. 9897109; 2/27/87

Docket No. KENT 87-108-R
Citation No. 9897110; 2/27/87

Docket No. KENT 87-109-R
Citation No. 9897111; 2/27/87

Docket No. KENT 87-110-R
Citation No. 9897112; 2/27/87

Docket No. KENT 87-111-R
Citation No. 9897113; 2/27/87

Docket No. KENT 87-112-R
Citation No. 9897114; 2/27/87

Docket No. KENT 87-113-R
Citation No. 9897115; 2/27/87

Docket No. KENT 87-114-R
Citation No. 9897116; 2/27/87

Docket No. KENT 87-115-R
Citation No. 9897117; 2/27/87

Docket No. KENT 87-116-R
Citation No. 9897118; 2/27/87

Docket No. KENT 87-117-R
Citation No. 9897119; 2/27/87

Docket No. KENT 87-118-R
Citation No. 9897120; 2/27/87

Docket No. KENT 87-119-R
Citation No. 9897121; 2/27/87

Docket No. KENT 87-120-R
Citation No. 9897122; 2/27/87

Docket No. KENT 87-121-R
Citation No. 9897123; 2/27/87

Docket No. KENT 87-122-R
Citation No. 9897124; 2/27/87

Docket No. KENT 87-123-R
Citation No. 9897125; 2/27/87

Docket No. KENT 87-124-R
Citation No. 9897126; 2/27/87

Docket No. KENT 87-125-R
Citation No. 9897127; 2/27/87

Docket No. KENT 87-126-R
Citation No. 9897128; 2/27/87

Docket No. KENT 87-127-R
Citation No. 9897129; 2/27/87

Docket No. KENT 87-128-R
Citation No. 9897130; 2/27/87

Docket No. KENT 87-129-R
Citation No. 9897131; 2/27/87

Docket No. KENT 87-130-R
Citation No. 9897132; 2/27/87

Docket No. KENT 87-131-R
Citation No. 9897133; 2/27/87

Docket No. KENT 87-132-R
Citation No. 9897134; 2/27/87

Docket No. KENT 87-133-R
Citation No. 9897135; 2/27/87

Docket No. KENT 87-134-R
Citation No. 9897136; 2/27/87

Docket No. KENT 87-135-R
Citation No. 9897137; 2/27/87

Docket No. KENT 87-136-R
Citation No. 9897138; 2/27/87

Docket No. KENT 87-137-R
Citation No. 9897139; 2/27/87

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

GREEN RIVER COAL COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDINGS

Docket No. KENT 87-172
A.C. No. 15-13469-03602

Docket No. KENT 87-173
A.C. No. 15-13469-03603

DECISION APPROVING SETTLEMENT
AND ORDER OF DISMISSAL

Before: Judge Weisberger

These cases are before me based on Notices of Contest filed by the Petitioner. The Secretary subsequently filed proposals for assessments of the Civil Penalties.

Both Parties filed a Joint Motion to Approve Settlement on September 23, 1987. The Motion proposed a reduction in total Penalties from \$7,800 to \$950. I have considered the documentation submitted in these cases, especially the representations of mitigating factors contained in paragraph 4. of the Motion and paragraphs 5. and 7. of Dave Harper's affidavit. I conclude that the proffered penalties agreed upon are appropriate under the criteria set forth in Section 110(i) of the Act.

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The Joint Motion also set forth a settlement agreement that 20 of the contested citations be vacated on the ground that they are not violations of the reporting requirements (30 C.F.R. 50.20), as they do not meet the definition of a reportable "accident", or "occupational injury". I have considered the documentation in these cases, especially paragraphs 3. and 5. of the Joint Motion, paragraph 6. of Dave Harper's affidavit, and Exhibit "A" attached to Dave Harper's affidavit. I conclude that it is proper to vacate the 20 citations referred to in the Motion.

Wherefore, the Joint Motion to Approve Settlement is GRANTED, and it is ORDERED that Petitioner (Operator) pay a penalty of \$950, within 30 days of this Order. It is further ORDERED that the following citations be VACATED:

9897101	9897128
9897104	9897129
9897112	9897130
9897114	9897131
9897115	9897133
9897117	9897134
9897119	9897135
9897120	9897137
9897122	9897138
9897125	9897139

It is further ORDERED that the above captioned Notices of Contest be DISMISSED.

Avram Weisberger
Administrative Law Judge