

CCASE:
SOL (MSHA) V. ZEIGLER COAL CO.
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

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

v.

ZEIGLER COAL COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. LAKE 88-89
A.C. No. 11-00612-03534

Spartan Mine

DECISION

Appearances: Miguel J. Carmona, Esq., Office of the Solicitor,
U.S. Department of Labor, Chicago, IL; for the
Petitioner
Brent Motchan, Esq., Zeigler Coal Company, Fairview
Heights, IL, for the Respondent.

Before: Judge Maurer

This case is before me upon a petition for assessment of
civil penalty under Section 105(d) of the Federal Mine Safety and
Health Act of 1977, 30 U.S.C. 801, et seq., (the Act).

Pursuant to notice, a hearing on the merits was held in St.
Louis, Missouri, on October 7, 1988. At the conclusion of the
reporting inspector's testimony, the parties proposed a
settlement of the case. Based on the testimony adduced in the
record, the petitioner proposed reducing the charged negligence
from "high" to "low", withdrawing the "unwarrantable failure"
contention and reducing the proposed penalty from \$1000 to \$250.
I have considered the representations and documentation submitted
in this case as well as the record of trial and I conclude that
the proffered settlement is appropriate under the criteria set
forth in section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is GRANTED,
Citation No. 3042299 is hereby modified to one issued under
Section 104(a) of the Act, and it is ORDERED that respondent pay
a penalty of \$250 within 30 days of this order.

Roy J. Maurer
Administrative Law Judge