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SOL (MSHA) V. MID-CONTINENT RESOURCES  
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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

CONTEST PROCEEDINGS

Docket No. WEST 89-45-R  
Order No. 3226175; 11/4/88

v.

Docket No. WEST 89-46-R  
Order No. 3223764; 11/10/88

MID-CONTINENT RESOURCES, INC.,  
RESPONDENT

Dutch Creek Mine  
Mine ID 05-00301

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

CIVIL PENALTY PROCEEDINGS

Docket No. WEST 89-143  
A.C. No. 05-00301-03690

v.

Docket No. WEST 89-175  
A.C. No. 05-00301-03700

MID-CONTINENT RESOURCES, INC.,  
RESPONDENT

Dutch Creek Mine

DECISION

Appearances: James H. Barkley, Esq., Office of the Solicitor,  
U.S. Department of Labor, Denver, Colorado,  
for Respondent/Petitioner;  
Edward Mulhall, Jr., Esq., Delaney & Balcomb,  
Glenwood Springs, Colorado,  
for Contestant/Respondent.

Before: Judge Cetti

The above captioned contest proceedings and their related  
civil penalty proceedings are consolidated for purpose of  
decision.

At the Glenwood Springs hearings of December 15, 16, 17,  
1988, the parties presented extensive documentary evidence and  
three days of testimony from numerous witnesses. A portion of the  
case was continued for further hearing. Prior to the continued  
hearing the parties negotiated proposed settlements of the cases.

The parties have now filed a joint motion requesting  
approval of the proposed settlements. The settlement agreements  
provides that petitioner amend the proposed penalties in civil  
proceedings Docket Nos. WEST 89-143 and WEST 89-175 as shown

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below and Mid-Continent withdraw its Notice of Contest to all citations and orders contained in Docket Nos. WEST 89-45-R and WEST 89-46-R.

Docket No. WEST 89-143

Citation/Order No.	Proposed Penalty	Amended Proposed Penalty
3226053	\$ 259.00	\$ 155.40
3226176 (89-45-R)	590.00	354.00

Docket No. WEST 89-175

2931141	\$1,400.00	840.00
3226628	1,300.00	780.00
3226175 (89-45-R)	1,300.00	780.00
3223765 (89-46-R)	1,400.00	840.00
3223771	1,500.00	900.00
2876864 (89-46-R)	1,200.00	720.00

In support of the proposed settlement disposition of these cases, the petitioner has submitted information pertaining to the six statutory civil penalty criteria found in Section 110(i) of the Act. In addition, the petitioner has submitted a discussion and disclosure as to the facts and circumstances surrounding the issuance of the citations and orders in question, and a reasonable justification of the reduction of the original proposed civil penalty assessments.

#### 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, appropriate, and in the public interest. Accordingly, pursuant to 29 C.F.R. 2700.30 the motion is GRANTED, and the settlement is APPROVED.

#### ORDER

1. Contest proceedings in Docket Nos. WEST 89-45-R and WEST 89-46-R are vacated.

2. Respondent is ORDERED to pay civil penalties in the settlement amounts shown above in satisfaction of the citations and orders in question in the amount of \$509.00 on or before April 1, 1990 for the penalties assessed in Docket WEST 89-143 and in the amount of \$4,860.00 on or before July 1, 1990 for the penalties assessment in Docket WEST 89-175.

August F. Cetti  
Administrative Law Judge