

CCASE:
SOL (MSHA) V. CROSSGATES MINING
DDATE:
19900808
TTEXT:

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

CIVIL PENALTY PROCEEDING

Docket No. KENT 89-209
A. C. No. 15-13541-03556

v.

Docket No. KENT 89-235
A. C. No. 15-13541-03557

CROSSGATES MINING COMPANY,
INCORPORATED,
RESPONDENT

Docket No. KENT 89-236
A. C. No. 15-13541-03558

Docket No. KENT 90-66
A. C. No. 15-13541-03560

No. 1 Mine

DECISION

Appearances: Mary Sue Taylor, Esq., Office of the Solicitor,
U. S. Department of Labor, Nashville, Tennessee,
for the Secretary;
Mr. Dale A. Anderson, Vice President Administration,
Crossgates Mining Company, Incorporated, Ashland,
Kentucky, for the Respondent.

Before: Judge Weisberger

These cases are before me upon petitions for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). Petitioner had filed a joint motion, with regard to Docket Nos. KENT 89-209, 89-335, and 89-236, to approve a settlement agreement and to dismiss these cases. A reduction in penalty from \$5,924 to \$2,962 is proposed. Initially, the Motion was not granted, and a hearing was scheduled to allow the Parties to present evidence to support the settlement. At the hearing, Petitioner made a Motion, agreed to by Respondent, to approve a settlement of Docket No. KENT 90-60, proposing a reduction in penalty from \$1,362 to \$681.

I have considered the representations and documentation submitted in these cases, especially the documentation and testimony presented at the hearing, on July 24, 1990, with regard to Respondent's financial condition. I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

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WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that Respondent pay a penalty of \$3,643 within 30 days of this order.

Avram Weisberger
Administrative Law Judge