

CCASE:  
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

CIVIL PENALTY PROCEEDING

Docket No. WEST 90-75  
A.C. No. 05-00301-03732

v.

Dutch Creek Mine

MID-CONTINENT RESOURCES  
INCORPORATED,  
RESPONDENT

DECISION

Appearances: Margaret A. Miller, Esq., Office of the Solicitor,  
U.S. Department of Labor, Denver, Colorado,  
for Petitioner;  
Edward Mulhall, Jr., Esq., Delaney & Balcomb, P.C.,  
Glenwood Springs, Colorado,  
for Respondent.

Before: Judge Morris

The Secretary of Labor, on behalf of the Mine Safety and Health Administration (MSHA), charges respondent with violating safety regulations promulgated under the Federal Mine Safety and Health Act, 30 U.S.C. 801, et seq. (the "Act").

After notice to the parties, a hearing commenced in Glenwood Springs, Colorado, on November 14, 1990.

At the hearing, the parties announced they had reached an amicable settlement of all issues not previously settled.

The citations, the original assessments, and the proposed disposition of all matters in controversy are as follows:

Citation No.	Assessment	Disposition
3225328	\$405	\$100
3410961	\$295	Vacate
9996381	\$530	\$295
Order No.	Assessment	Disposition
2931575	None	Vacate
3410940	None	Affirmed

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In connection with their settlement the parties further seek to amend the "Significant and Substantial" allegations in Citation No. 3225328.

In support of their motion the parties have further submitted information relating to the statutory criteria for assessing civil penalties as contained in 30 U.S.C. 820(i).

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 agreement is APPROVED.
2. Citation No. 3225328 is AFFIRMED and a civil penalty of \$100 is ASSESSED.
3. Citation No. 9996381 is AFFIRMED and a civil penalty of \$295 is ASSESSED.
4. Citation No. 3410961 is VACATED.
5. Order No. 3410940 is AFFIRMED.
6. Order No. 2931575 is VACATED.
7. Respondent is ORDERED to pay to the Secretary of Labor the sum of \$395 within 40 days of the date of this decision.

John J. Morris  
Administrative Law Judge