

CCASE:
SOL (MSHA) v. PYRO MINING
DDATE:
19910508
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges
2 Skyline, 10th Floor
5203 Leesburg Pike
Falls Church, Virginia 22041

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

v.

PYRO MINING COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. KENT 91-49
A. C. No. 15-13920-03681

Docket No. KENT 91-82
A. C. No. 15-13920-03683

Pyro No. 9 Wheatcroft

Docket No. KENT 91-83
A. C. No. 15-14492-03574

Baker Mine

DECISION

Appearances: W. F. Taylor, Esq., Office of the Solicitor, U. S. Department of Labor, Nashville, Tennessee, for the Secretary of Labor (Secretary); Catherine Behrens, Esq., Sturgis, Kentucky, for Pyro Mining Company (Pyro).

Before: Judge Broderick

Pursuant to notice, the above cases were called for hearing on the merits in Nashville, Tennessee, on April 30, 1991. The parties submitted on the record a motion to approve a settlement in all of the three dockets as follows:

Docket No. KENT 91-49

1. Citation 3420624. Pyro agrees to withdraw its contest and pay the assessed penalty (\$1500).

2. Order 3420687. Pyro agrees to withdraw its contest and to pay the assessed penalty (\$1500).

3. Citation 3545776. The Secretary agrees to vacate the citation.

4. Citation 3545901. Pyro agrees to withdraw its contest and pay the assessed penalty (\$229).

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5. Citation 3545832. This citation charges a violation of 30 C.F.R. 75.402 because of inadequate rock dust outby the feeder. It was designated a significant and substantial violation. The Secretary agrees to modify the citation to a nonsignificant and substantial violation and reduce the penalty from \$213 to \$20 on the ground that the area cited was 350 feet from the face and no ignition sources were present.

6. Citation 3545902 charges a violation of 30 C.F.R. 75.512 because a scoop was on charge and the lids not secured. The Secretary agrees that the negligence should have been rated as low rather than moderate. Pyro agrees to pay the assessed penalty (\$175).

Docket No. KENT 91-82

1. Citation 3545906 charges a violation of 30 C.F.R. 75.807 because of improper placement of a high voltage cable. It was designated as a significant and substantial violation. The Secretary agrees to modify the citation to a nonsignificant and substantial violation because the cable had no breaks and presented no likelihood of injury. Pyro agreed to pay the assessed penalty (\$178).

2. Citation 3545840. Pyro agrees to withdraw its contest and to pay the assessed penalty (\$335).

Docket No. KENT 91-83

1. Citation 3421446. Pyro agrees to withdraw its contest and pay the assessed penalty (\$178).

2. Citation 3421445 charges a violation of 30 C.F.R. 75.316 because of an inoperative water spray. It was designated as a significant and substantial violation. The Secretary agrees to modify the citation to a nonsignificant and substantial violation because miners were not exposed in the cited area. Pyro agrees to pay the assessed penalty (\$178).

3. Citation 3421448. Pyro agrees to withdraw its contest and pay the assessed penalty (\$178).

4. Citation 354530. Pyro agrees to withdraw its contest and pay the assessed penalty (\$206).

I have considered the motion in the light of the criteria in Section 110(i) of the Act and conclude that it should be approved.

ORDER

Accordingly, it is ORDERED:

1. Citation 3545776 is VACATED.

2. Citations 3545832, 3545906, 3421445 are MODIFIED to charge nonsignificant and substantial violations.

3. Pyro shall within 30 days of the date of this Decision pay to the Secretary the following civil penalties:

ORDER/CITATION	30 C.F.R.	AMOUNT
3420624	75.1325(c)(1)	\$1500
3420687	75.400	1500
3545901	75.517	229
3545832	75.402	20
3545902	75.512	178
3545906	75.807	178
3545840	75.400	335
3421446	75.1722(b)	178
3421445	73.316	178
3421448	75.316	178
354530	75.316	206
	TOTAL	\$4680

James A. Broderick
Administrative Law Judge