

CCASE:
SOL (MSHA) v. TEXAS UTILITIES MINING
DDATE:
19910829
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.

TEXAS UTILITIES MINING COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDINGS

Docket No. CENT 91-20
A. C. No. 41-02632-03531

Docket No. CENT 91-21
A. C. No. 41-02632-03532

Docket No. CENT 91-63
A. C. No. 41-02632-03534

Martin Lake Strip

DECISION APPROVING SETTLEMENT

Appearances: Ernest Burford, Esq., Office of the
Solicitor, U. S. Department of
Labor, Dallas, Texas, for the
Petitioner;
Christopher R. Miltenberger, Esq.,
Worsham, Forsythe, Sampels &
Wooldridge, Dallas, Texas, for the
Respondent.

Before: Judge Melick

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). At hearing, Petitioner filed a motion to approve a settlement agreement and to dismiss the cases. She moved to vacate Citations No. 3415948, 3415949, 3415953, 3415957, 3416128 and 3416129, on the grounds that MSHA could not locate the inspector's notes of the related inspections and the inspector had insufficient independent recollection of the related conditions. She therefore noted that there was insufficient evidence to support the citations.

With respect to the remaining citations a reduction in penalty from \$1,022 to \$358 was proposed. I have considered the representations and documentation submitted in these cases, and 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 \$358 within 30 days of this order.

Gary Melick
Administrative Law Judge