

CCASE:
SOL (MSHA) v. SHENANDOAH COAL
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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.

SHENANDOAH COAL CO., INC.,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. VA 91-471
A.C. No. 44-05541-03536D

No. 1 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On December 4, 1991, the Secretary of Labor (Secretary) and Shenandoah Coal Co Inc. (Shenandoah) filed a Motion to Approve Settlement in the above case. The docket involves six alleged violations of 30 C.F.R. 71.209(b) in which the Secretary alleged that Respondent altered the weight of a respirable dust sample submitted by Respondent as part of its sampling requirements. The Secretary states that the violations resulted from a deliberate act; the operator denies that it deliberately tampered with or altered any of its dust filter media.

The motion states that the parties agree to settle the case by reducing the proposed penalty for each violation from \$1200 to \$960 based on a dispute between the parties as to the degree and existence of negligence.

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.

Accordingly, IT IS ORDERED:

1. The settlement agreement is APPROVED.
2. Respondent shall within 30 days of the date of this order pay the sum of \$5760 as civil penalties for the alleged violations.

James A. Broderick
Administrative Law Judge