

CCASE:
BLUE DIAMOND COAL v. SOL (MSHA)
DDATE:
19920128
TTEXT:

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

BLUE DIAMOND COAL COMPANY,
CONTESTANT

v.

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

CONTEST PROCEEDINGS

Docket No. KENT 91-993-R
KENT 91-994-R

Citation No. 9859071; 4/4/91
9859072; 4/4/91

Middle Taggart Mine
15-15022

Docket Nos. KENT 91-995-R
through KENT 91-1000-R

Citation Nos. 9858544; 4/4/91
through 9858549; 4/4/91

Scotia Mine
15-02055

ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING CONTEST PROCEEDINGS

Before: Judge Broderick

On January 17, 1992, the Secretary and the mine operator submitted a joint settlement agreement covering the violations charged in the above contested citations. The Secretary has agreed to reduce the total proposed penalty assessment for the eight violations from \$10,800 to \$8,740. The operator agrees to withdraw its notices of contest and does not dispute the amount of the penalties as reduced. The operator represents that it is now subject to Chapter 11 bankruptcy proceedings, and the Secretary will not enforce its claim for penalties except through the bankruptcy court. The agreement shall not be deemed an admission for any purpose except for civil matters arising under the Mine Act. It will not be used in any criminal or private civil litigation, but the Secretary is not precluded from including the citations in the operator's history of violations and considering them in proposing civil penalties under the Act.

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.

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Accordingly, IT IS ORDERED:

1. The settlement agreement submitted by the parties is APPROVED.

2. The above contest proceedings are DISMISSED.

James A. Broderick
Administrative Law Judge