

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

February 20, 1992

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 91-87-M
Petitioner	:	A. C. No. 04-04684-05510
	:	
v.	:	Docket No. WEST 91-370-M
	:	A. C. No. 04-04684-05511
PETERS & GARMAN CONSTRUCTION,	:	
Respondent	:	Shell Lane Mine

ORDER VACATING DEFAULT
DECISION APPROVING SETTLEMENTS

These cases are now before me pursuant to Orders of the Commission dated February 11, 1992.

As stated in the Commission orders, the parties have reached a settlement in these cases but were delayed in submitting the agreements because the operator's counsel was temporarily out-of-state. Bearing in mind the Commission's repeated admonition that default is a harsh remedy and since the parties have settled these matters, I conclude that relief from default is warranted.

The parties have filed a joint motion to approve settlements in these cases. A modest reduction in penalties from \$267 to \$253 is proposed. I have considered the representations and documentation submitted in these cases, and I conclude that the proffered settlements are appropriate under the criteria set forth in section 110(i) of the Act.

In light of the foregoing, it is ORDERED that the defaults issued in these cases be and are hereby VACATED.

It is further ORDERED that the motion for approval of settlements be GRANTED and the operator PAY a penalty of \$253 within 30 days of the date of this decision.



Paul Merlin
Chief Administrative Law Judge