

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
THE FEDERAL BUILDING
ROOM 280, 1244 SPEER BOULEVARD
DENVER, CO 80204

MAY 27 1992

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. WEST 91-509
Petitioner : A.C. No. 05-00301-03779
: :
v. :
: Dutch Creek Mine
MID-CONTINENT RESOURCES, INC., :
Respondent :

DECISION

Appearances: Margaret A. Miller, Esq., **Tambra** Leonard, Esq.
Office of the Solicitor, U.S. Department of Labor,
Denver, Colorado,
for Petitioner;
Edward Mulhall, Jr., Esq., DELANEY & BALCOMB, P.C.,
Glenwood Springs, Colorado.

Before: Judge Morris

This is a civil penalty proceeding initiated by Petitioner against Respondent pursuant to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (the "Act"). The civil penalties sought here are for the violation of mandatory regulations promulgated pursuant to the Act.

A hearing in this case and related cases was held in **Glenwood** Springs, Colorado, on February 26, 1992. The parties reached an amicable settlement and subsequently filed a written Joint Motion to Approve Settlement.

Respondent further filed a suggestion of bankruptcy.

The Citations, the original assessments, and the proposed dispositions are as follows:

<u>Citation No.</u>	<u>Proposed Penalty</u>	<u>Amended Proposed Penalty</u>
3586644	\$91	\$55
3586645	\$91	\$55
3586646	\$91	\$55

In support of their motion, the parties submitted information relating to the statutory criteria for assessing civil penalties as contained in 30 U.S.C. § 820(i).

I have reviewed the settlement and I find it is reasonable and in the public interest. It should be approved.

Accordingly, I enter the following:

ORDER

1. The order of reconsolidation entered on March 2, 1992, is **DISSOLVED**.
2. The above Citations and amended penalties are **AFFIRMED**.
3. Respondent filed a case under Chapter 11 of the Bankruptcy Code and is operating its bankruptcy estate as a **debtor-in-possession**. Accordingly, upon approval of the United States Bankruptcy Court in Case No. 91-11658 PAC, it is ORDERED that civil penalties will be assessed against the Respondent in the amount of \$165 and Petitioner is authorized to assert such assessment as a claim in Respondent's Bankruptcy Case.


John J. Morris
Administrative Law Judge

Distribution:

Margaret A. Miller, Esq., **Tambra** Leonard, Esq., Office of the Solicitor, U.S. Department of Labor, 1585 Federal Office Building, 1961 Stout Street, Denver, CO 80294 (Certified Mail)

Edward Mulhall, Jr., Esq., DELANEY & BALCOMB, P.C., Drawer 790, **Glenwood** Springs, CO 81602 (Certified Mail)

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