

CCASE:
SOL (MSHA) V. MID-CONTINENT RESOURCES
DDATE:
19920724
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges
The Federal Building
1244 Speer Boulevard #280
DENVER, CO 80204-3582
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SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

CIVIL PENALTY PROCEEDING

Docket No. WEST 91-580
A.C. No. 05-00301-03782

v.

Dutch Creek Mine

MID-CONTINENT RESOURCES,
INCORPORATED,
RESPONDENT

DECISION

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

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 civil penalty sought here is for the violation of a mandatory regulation 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 on the record and subsequently filed a written Joint Motion to Approve Settlement.

Respondent further filed a suggestion of bankruptcy.

The Citation, the original assessment, and the proposed disposition are as follows:

Citation No.	Proposed Penalty	Amended Proposed Penalty
3411282	\$950.00	\$570.00

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

Accordingly, I enter the following:

ORDER

1. Citation No. 3411282 and the amended proposed penalty therefor are AFFIRMED.

2. 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 a civil penalty will be assessed against the Respondent in the amount of \$570.00 and Petitioner is authorized to assert such assessment as a claim in Respondent's Bankruptcy Case.

John J. Morris
Administrative Law Judge