

CCASE:  
MSHA V. PYRAMID MINING  
DDATE:  
19921123  
TTEXT:

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,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 92-136
Petitioner	:	A. C. No. 15-11620-03527
v.	:	
	:	Docket No. KENT 92-340
PYRAMID MINING, INCORPORATED,	:	A. C. No. 15-11620-03528
Respondent	:	
	:	Docket No. KENT 92-341
	:	A. C. No. 15-11620-03529
	:	
	:	Hall No. 2 Mine

DECISION

Appearances: Mary Sue Taylor, Esq., Office of the Solicitor, U.S. Department of Labor, Nashville, Tennessee, for Petitioner; Frank Stainback, Esq. Holbrook, Wible, Sullivan, and Mountjoy, Owensboro, Kentucky for Respondent.

Before: Judge Weisberger

These consolidated cases are before me based on petitions for assessment of civil penalty filed by the Secretary of Labor (Petitioner) alleging violations of various mandatory safety standards. Pursuant to notice, Docket No. KENT 92-136 was scheduled for hearing for April 1, 1992. At the hearing, the parties settled Citation No. 9897840. A Partial Decision was subsequently issued regarding these citations. Also, further proceedings regarding Citation No. 3416898 were stayed pending the filing of a Petition for Assessment of civil penalty with regard to Citation No. 3416897. Subsequently, petitions were filed regarding this citation (KENT 92-340), and a companion Citation No. 3416991 (KENT 92-341). The parties engaged in pretrial discovery, and on November 12, 1992, filed a Joint Motion to Approve Settlement regarding citation No. 3416898 (KENT 92-136) as well as Citation Nos. 3416897 and 3416991 (Docket Nos. KENT 92-140 and KENT 92-141 respectively).

Initially, in the respective Petitions for Assessment of Civil Penalty, Petitioner had sought civil penalties totaling

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\$1,726. In the Motion, the parties seek approval of a reduction of penalties to \$294. Based on the representatives and assertions set forth in the Joint Motion, I conclude that the proffered settlement is appropriate considering the factors set forth in Section 110(i) of the Federal Mine Safety and Health Act of 1977. I therefore approve the settlement, and grant the joint motion.

It is ORDERED that, within 30 days of this Decision, Respondent shall pay civil penalties totalling \$294.

Avram Weisberger  
Administrative Law Judge

Distribution:

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