

CCASE:
HOMESTAKE MINING V. SOL (MSHA)
DDATE:
19930105
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1244 SPEER BOULEVARD #280
DENVER, CO 80204-3582
(303) 844-5266/FAX (303) 844-5268

January 5, 1993

HOMESTAKE MINING COMPANY,	:	CONTEST PROCEEDINGS
Contestant,	:	
	:	Docket No. CENT 91-217-RM
	:	Citation No. 2653241; 8/8/91
	:	
v.	:	Homestake Mine
	:	
	:	Docket No. CENT 91-226-RM
	:	Order No. 2653196; 8/23/91
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Lead Mine
ADMINISTRATION (MSHA)	:	
Respondent	:	Mine I.D. 39-00055
	:	
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. CENT 92-344-M
Petitioner	:	A.C. No. 39-00055-05681
	:	
	:	
v.	:	
	:	Homestake Mine - Lead
HOMESTAKE MINING COMPANY OF	:	
CALIFORNIA,	:	
Respondent	:	

AMENDED DECISION

Appearances: Henry Chajet, Esq., Ann Simmons, Esq., JACKSON & KELLY, Washington, DC,
for Contestant/Respondent;
Robert J. Murphy, Esq., Kristi Floyd, Esq., Office of the Solicitor, U.S. Department of Labor, Denver, Colorado,
for Respondent/Petitioner;
Gene Ruff, President, Local 7044, United Steelworkers of America, Lead, South Dakota,
for United Steelworkers of America.

Before: Judge Morris

These consolidated cases are contest proceedings and a civil penalty proceeding arising pursuant to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801, et seq. (the "Act"). The civil penalty proceeding herein is for the alleged violations of mandatory regulations enacted pursuant to the Act.

An expedited hearing commenced in Docket No. CENT 91-217-RM on September 17, 1991. At the hearing held in Denver, Colorado, the United Steelworkers of America were granted leave to intervene.

After an extensive conference, Contestant Homestake Mining Company of California ("Homestake") was granted leave to withdraw its motion for an expedited hearing. The case was further stayed until the Secretary proposed a civil penalty.

On November 5, 1991, the Judge vacated Closure Order No. 3630266.

On July 16, 1992, Docket Nos. CENT 91-217-RM and CENT 91-226-RM were consolidated.

On October 21, 1992, Docket No. CENT 92-344-M was assigned to the Presiding Judge.

On October 27, 1992, Docket Nos. CENT 91-217-RM, CENT 91-226-RM, and CENT 92-344-M were consolidated.

On November 6, 1992, a settlement motion, executed by Contestant and Secretary, was filed. The motion was also served on Cathy M. Dupree, the Miners' Representative of Homestake Mining Company.

No objection has been filed to the settlement motion.

In support of the motion, Contestant and Secretary state as follows:

Order No. 3909125

(a) A section 104(g)(1) Order No. 3909125 was issued to Homestake by the Secretary on March 25, 1991, alleging a violation of 30 C.F.R. 48.7(c). This order was later assessed a penalty of \$20,000.

On the basis of information supplied by Homestake, the Secretary agreed to reduce the proposed penalty on this Order from \$20,000 to \$10,000.

Citation No. 3909122

(b) A Section 104(a) Citation No. 3909122 was issued to Homestake by the Secretary on March 16, 1992, alleging a violation of 30 C.F.R. 57.14205. This order was later assessed a penalty of \$9,000.

On the basis of information supplied by Homestake, the Secretary agreed to reduce the proposed civil penalty on this Citation from \$9,000 to \$6,000.

Citation No. 3901926

(c) A Section 104(a) Citation No. 3909126 was issued to Homestake by the Secretary on Mary 25, 1991, alleging a violation of 30 C.F.R. 48.7(c). This Citation was later assessed a penalty of \$20,000.

On the basis of information supplied by Homestake, the Secretary agreed to reduce the proposed civil penalty on this Citation from \$20,000 to \$10,000.

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

ORDER

1. The stay of proceeding is LIFTED.
2. The settlement agreement is APPROVED.
3. Order No. 3909125 and the amended penalty of \$10,000 are AFFIRMED.

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4. Citation No. 3909122 and the amended penalty of \$6,000 are AFFIRMED.

5. Citation No. 3901926 and the amended penalty of \$15,000 are AFFIRMED.

6. Contestant/Respondent Homestake Mining Company is ORDERED TO PAY to the Secretary of Labor the sum of \$31,000 within 40 days of the date of this amended decision.

7. Contest proceedings CENT 91-217-RM and CENT 91-226-RM are DISMISSED.

8. Contest proceedings CENT 91-217-RM and CENT 91-226-RM are DISMISSED.

John J. Morris
Administrative Law Judge

Distribution:

Henry Chajet, Esq., Mark N. Savit, Esq., JACKSON & KELLY, 1701 Pennsylvania Avenue, NW, Suite 650, Washington, DC 20006
(Certified Mail)

Ms. Cathy M. Dupree, Miners' Representative, Mr. Gene Ruff, President, Local 7044, United Steelworkers of America, c/o HOMESTAKE MINING COMPANY OF CALIFORNIA, 215 West Main Street, P.O. Box 875, Lead, SD 57754-1603 (Certified Mail)

Robert J. Murphy, Esq., Kristi Floyd, Esq., Office of the Solicitor, U.S. Department of Labor, 1585 Federal Office Building, 1961 Stout Street, Denver, Colorado 80294 (Certified Mail)

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