

CCASE:
SOL (MSHA) V. BAXTER NEECE
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SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. VA 92-187
Petitioner	:	A. C. No. 44-06593-03522
	:	
v.	:	
	:	
	:	
BAXTER R. NEECE, formerly employed	:	
by H B & B EQUIPMENT CO. INC.,	:	Mine No. 4
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

This case is before me upon a petition for assessment of a civil penalties under section 105(d) of the Federal Mine Safety and Health Act of 1977. The Solicitor has filed a motion to approve settlements. A reduction in the penalties from \$2,950 to \$50 per-month for 10 months for a total civil penalty of \$500 is proposed.

According to the Solicitor, the respondent is currently unemployed and has not worked as a foreman for the last year and a half. In addition, the Solicitor states that while the respondent conducted preshift examinations as a maintenance foreman on the midnight shift which should have revealed these violations, it was unlikely that he had the authority to have prevented or corrected the violations.

The reductions are extraordinary and constitute low penalty amounts under section 110(i) of the Act, but relying upon the Solicitor's detailed motion, I find that the amounts are appropriate.

WHEREFORE, the motion for approval of settlements is GRANTED, and it is ORDERED that the respondent, Baxter R. Neece, PAY a penalty of \$500 according to the payment schedule set forth in the settlement motion.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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