

CCASE:  
SOL (MSHA) V. OGLEBAY NORTON TACONITE  
DDATE:  
19930621  
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. LAKE 93-52-M
Petitioner	:	A.C. No. 21-00828-05591
v.	:	Fairlane Plant
	:	
OGLEBAY NORTON TACONITE	:	Docket No. LAKE 93-53-M
COMPANY,	:	A.C. No. 21-00200-05572
Respondent	:	
	:	Docket No. LAKE 93-54-M
	:	A.C. No. 21-00200-05573
	:	
	:	Docket No. LAKE 93-55-M
	:	A.C. No. 21-00200-05574
	:	
	:	Thunderbird Mine

DECISION APPROVING SETTLEMENT

ORDER TO PAY

These cases are before me due to Judge Melick's illness.

The parties have now filed an amended settlement motion. The motion explains that the 53 citations in these cases all were issued during the same inspection for failure to report mine site injuries which were reportable under Part 50 of the regulations. In forty-five instances, the injured miner had not reported the injury while on the mine property, but sought treatment later from a physician or chiropractor and the injury did not result in lost time. The clerical staff of the operator failed to recognize the information on the forms sent to the mine as injuries reportable to MSHA. In light of the foregoing, the parties represent that these violations were not intentional and that, therefore, negligence was less than originally thought. The amended settlement motion also sets forth information regarding the six criteria of section 110(i) of the Act. A penalty of \$200 is recommended for each of these violations which I find is appropriate under the Act in light of the finding of reduced negligence which I accept.

The parties further represent that in eight citations the operator should clearly have recognized the fact that the injuries which occurred were reportable under Part 50 because the injuries resulted in lost time. The parties recommend

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settlements in the amount of \$400 for each of these violations. This was the amount of the Secretary's original assessment. I conclude that these settlements are consistent with the standards of section 110(i) of the Act. Finally, I am persuaded that the total amount of penalties assessed herein will have the deterrent effect anticipated by the Act. In this connection I note the assurances given me by operator's counsel in a conference telephone call on May 28, 1993, that the operator now understands its responsibilities under the Act and is presently complying with the reporting requirements.

ACCORDINGLY, it is ORDERED that the recommended settlements be Approved.

It is further ORDERED that in Docket No. LAKE 93-52-M, the operator, within 30 days from the date of this order, pay \$3,400.

It is further ORDERED that in Docket No. LAKE 93-53-M, the operator, within 30 days from the date of this order, pay \$4,600.

It is further ORDERED that in Docket No. LAKE 93-54-M, the operator, within 30 days from the date of this order, pay \$4,000.

It is further ORDERED that in Docket No. LAKE 93-55-M, the operator, within 30 days from the date of this order, pay \$200.

Paul Merlin  
Chief Administrative Law Judge

Distribution:

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