

CCASE:
SOL V. KIAH CREEK MINING
DDATE:
19931026
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 PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 92-964
Petitioner	:	A.C. No. 15-16678-03521
	:	
	:	No. 4 Mine
V.	:	
	:	
KIAH CREEK MINING COMPANY,	:	
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Barbour

Statement of the Proceeding

This proceeding concerns proposals for assessment of a civil penalty filed by the Petitioner against the Respondent pursuant to Section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking a civil penalty assessment for one alleged violation of a certain mandatory safety standard found in Part 77, Title 30, Code of Federal Regulations.

The parties now have decided to settle the matter, and they have filed a motion pursuant to Commission Rule 30, 29 C.F.R.

2700.30, seeking approval of the proposed settlement. The citation, initial assessment, and the proposed settlement amount is as follows:

Citation No.	Date	30 C.F.R. Section	Assessment	Settlement
3811870	04/22/92	75.220	\$94	\$85

In support of the proposed settlement disposition of this case, the Petitioner has submitted information pertaining to the six statutory civil penalty criteria found in Section 110(i) of the Act, included information regarding Respondent's size and ability to continue in business and history of previous violations.

In particular, with regard to Citation No. 3811870, the parties note the violation of the approved roof control plan did not affect two persons, as indicated by the inspector but rather affected one.

CONCLUSION

After review and consideration of the pleadings, arguments, and submissions in support of the motion to approve the proposed settlement of this case, I find that the proposed settlement disposition is reasonable and in the public interest. Pursuant to 29 C.F.R. 2700.30, the motion IS GRANTED, and the settlement is APPROVED.

ORDER

Respondent IS ORDERED to pay a civil penalty in the settlement amount shown above in satisfaction of the violation in question. Petitioner IS ORDERED to modify the citation to indicate that only one person was affected. Payment is to be made to MSHA within thirty (30) days of the date of this proceeding and upon receipt of payment, this proceeding is DISMISSED.

David F. Barbour
Administrative Law Judge
(703)756-5232

Distribution:

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