CCASE:

SOL (MSHA) V. NEW HOPE OF KENTUCKY

DDATE: 19931124 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 93-487

Petitioner : A. C. No. 15-16708-03569

V.

: Docket No. KENT 93-488

NEW HOPE OF KENTUCKY, INC., : A. C. No. 15-16708-03570

Respondent

Docket No. KENT 93-489A. C. No. 15-16708-03571

:

: No. 1 Mine

DECISION APPROVING SETTLEMENT

Appearances: Thomas A. Grooms, Esq., Office of the Solicitor,

U. S. Department of Labor, Nashville, Tennessee,

for the Secretary;

Mr. Reece Lemar, New Hope of Kentucky, Inc., for

Respondent.

Before: Judge Maurer

These cases are before me upon a petition for assessment of civil penalties under section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). An evidentiary hearing in these matters was held on October 21, 1993, in London, Kentucky. At the conclusion of that hearing, the parties filed a motion to approve a settlement agreement and to dismiss these cases.

The citations, initial assessments, and the proposed settlement amounts are as follows:

CITATION/	PROPOSED	PROPOSED
ORDER NO.	ASSESSMENT	SETTLEMENT
KENT 93-487		
9885241	\$ 500	\$ 100
KENTE 02 400		
KENT 93-488		
3828487	136	136
3828488	147	147
3828490	220	170

~2400		
3828494	50	50
3828995	252	202
3828996	50	50
3828997	50	50
3828999	147	147
KENT 93-489		
3828489	600	400
3828491	1000	600
3828492	1000	600
3828998	1800	1040
TOTAL	\$ 5952	\$ 3692

I have considered the representations and documentation submitted in these cases, as well as the testimony contained in the record of proceedings and I conclude that the proffered settlement is appropriate under the criteria set forth in section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that respondent pay a penalty of \$3692\$ within 30 days of this order.

Roy J. Maurer Administrative Law Judge

Distribution:

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Mr. Reece Lemar, President, New Hope of Kentucky, Inc., Drawer 1590, Harlan, KY 40831 (Certified Mail)

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