

CCASE:
SOL (MSHA) V. SAGINAW MINING
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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA) : Docket No. Lake 93-165
Petitioner : A.C. No. 33-00941-03757
v. :
: Saginaw Mine
SAGINAW MINING COMPANY, :
Respondent :

ORDER DISAPPROVING SETTLEMENT
ORDER TO SUBMIT INFORMATION

Before: Judge Feldman

This case is before me based upon a petition for assessment of civil penalties filed by the Secretary pursuant to Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). 30 U.S.C. 801 et seq. The Secretary has filed a motion for the approval of settlement concerning the three citations in issue. These citations concern a fatal roof-fall accident that occurred at the Saginaw Mine on October 23, 1991. A mine foreman suffered fatal injuries and a construction foreman suffered serious injuries as a result of this accident. The Secretary seeks my approval of reductions in the total proposed civil penalties from \$21,000 to \$15,000.

The motion before me contains no specific rationale or evidence of mitigating circumstances that would support the proposed reduction in civil penalties. Section 110(k), 30 U.S.C. 820(k), requires Commission approval of any settlement agreement in this matter. The Commission must consider whether the terms of the proposed settlement are consistent with the six statutory criteria set forth in Section 110(i) of the Act, 30 U.S.C. 820(i). See Sellersburg Stone Company v. Federal Mine Safety and Health Review Commission, 736 F.2d 1147 (7th Cir. 1984).

Based upon the absence of supporting information in the Secretary's motion, particularly in this case which involves a fatality, I am unable to conclude that the suggested penalty reduction is appropriate. Accordingly, IT IS ORDERED that the motion for approval for settlement IS DENIED. IT IS FURTHER ORDERED that the parties shall provide additional information specific to each citation supporting their motion for reduction

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in civil penalty. The information provided should specifically address the mitigating circumstances, if any, that warrant a reduction in penalties. This information should be provided within 30 days of the date of this order. Failure to timely provide the requested information will result in the scheduling of this case for hearing.

Jerold Feldman
Administrative Law Judge

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