

CCASE:  
SOL (MSHA) V. TUG VALLEY COAL PROCESSING  
DDATE:  
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TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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FALLS CHURCH, VIRGINIA 22041

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. WEVA 94-26  
Petitioner : A.C. No. 46-05890-03549  
v. :  
 : Tug Valley Coal Processing  
TUG VALLEY COAL PROCESSING :  
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 certain mandatory safety standard found in Part 56, Title 30, Code of Federal Regulations. The Respondent filed a timely answer denying the alleged violation.

The parties now have decided to settle the matter, and the Secretary has filed a motion pursuant to Commission Rule 31, 29 C.F.R. 2700.31, seeking approval of the proposed settlement. The citation, initial assessment, and the proposed settlement amount are as follows:

Citation No.	Date	30 C.F.R.	Assessment	Settlement
3991883	07/20/93	77.404(a)	\$412	\$412

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

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CONCLUSION

After review and consideration of the pleadings and submissions in support of the motion to approve the proposed settlement of this case, I find that approval of the full payment is reasonable and in the public interest. Pursuant to 29 C.F.R. 2700.31, the motion IS GRANTED, and the settlement is APPROVED

ORDER

Respondent IS ORDERED to pay a civil penalty in the amount shown above in satisfaction of the violation in question. 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

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