

CCASE:  
SOL (MSHA) V. OLD BEN COAL  
DDATE:  
19940714  
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. WEVA 93-442  
Petitioner : A. C. No. 46-02052-03693  
v. :  
 : Mine No. 20  
OLD BEN COAL COMPANY, :  
Respondent :  
:

PARTIAL DECISION

Appearances: Pamela S. Silverman, Esq., Office of the  
Solicitor, U.S. Department of Labor, Arlington,  
Virginia for Petitioner;  
Thomas L. Clarke, Esq., Old Ben Coal Company,  
Fairview Heights, Illinois for Respondent.

Before: Judge Hodgdon

This case is before me on a petition for assessment of civil penalty filed by the Secretary of Labor against Old Ben Coal Company pursuant to Sections 105 and 110 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 815 and 820. The petition alleges three violations of the Secretary's mandatory health and safety standards.

A hearing was held in this case, which was consolidated for hearing with Docket Nos. WEVA 93-362, WEVA 93-479, WEVA 94-38 and WEVA 94-72, on May 3, 1994, in Williamson, West Virginia. At the hearing the parties stated they had agreed to settle Citation Nos. 3999416 and 3999417 and that Citation No. 3747181 was to be stayed pending the completion of a special investigation. (Tr. 9-11.)

The settlement provides that the "significant and substantial" designation for Citation No. 3999416 be deleted and the proposed penalty reduced from \$506.00 to \$50.00. It further provides that the Respondent pay the \$50.00 proposed penalty for Citation No. 3999417.

ORDER

Accordingly, it is ORDERED that this case is SEVERED from the dockets it was consolidated with for hearing by orders dated January 27 and February 10, 1994; that Citation No. 3999416 is MODIFIED to delete the "significant and substantial" designation and AFFIRMED as modified; that Citation No. 3999417 is AFFIRMED; that Old Ben Coal Company PAY a civil penalty in the amount of \$100.00 within 30 days of the date of this decision; and that further proceedings concerning Citation No. 3747181 are STAYED until October 31, 1994, or the completion of the special investigation, whichever comes first.

T. Todd Hodgdon  
Administrative Law Judge

Distribution:

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