

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
1331 Pennsylvania Avenue NW, Suite 520N  
Washington, D.C. 20004

October 22, 2015

ALPHA HIGHWALL MINING, LLC,  
and REVELATION ENERGY, LLC,  
successor in interest,  
Contestant,

v.

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
Respondent

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
Petitioner

v.

ALPHA HIGHWALL MINING, LLC,  
and REVELATION ENERGY, LLC,  
successor in interest,  
Respondent

**CONTEST PROCEEDINGS**

Docket No. KENT 2012-1207-R  
Citation No. 8270168; 05/29/2012

Docket No. KENT 2012-1208-R  
Citation No. 8270169; 05/29/2012

**CIVIL PENALTY PROCEEDING**

Docket No. KENT 2013-142  
A.C. No. 15-19621-301671

Mine: Bucyrus Highwall Miner #76

**DECISION APPROVING SETTLEMENT**  
**AND**  
**ORDER TO PAY**

Before: Judge Feldman

These consolidated civil penalty and contest proceedings are before me based on a petition for assessment of civil penalty filed by the Secretary of Labor (“Secretary”) under section 105(d) of the Federal Mine Safety and Health Act of 1977, as amended (“the Act”), 30 U.S.C. § 815(d), against the Respondent, Alpha Highwall Mining, LLC (“Alpha Highwall”).

On March 11, 2015, the parties filed a joint motion to approve settlement naming Revelation Energy, LLC (“Revelation Energy”) as the successor in interest to Alpha Highwall. The parties’ settlement terms included a substantial reduction to the initial proposed civil penalty from \$90,000.00 to \$5,000.00. The substantial reduction in civil penalty is based, in large part, on the modification of 104(d)(1) Citation No. 8270168 and 104(d)(1) Order No. 8270169 to 104(a) citations, to reflect that the cited conditions were not attributable to unwarrantable failures. In further support of the substantial reduction in civil penalty, Revelation Energy, as the successor in interest to Alpha Highwall, has agreed to implement improved safety measures at the mine site:

In addition to the payment of [the agreed-upon \$5,000.00 civil penalty], [Revelation Energy] by virtue of its acquisition [of Alpha Highwall’s liability], [has] agreed to spend at least \$55,000 to purchase handheld two-way radios, cameras for the highwall miners, and shelters for the miners at [surface] mines operated by Revelation Energy [some of which were previously-operated by Alpha Highwall]. The handheld radios will be provided to the miners who work at the [surface] mines and the cameras and shelters will be installed on the highwall miners operated by Revelation Energy. [Revelation Energy] has agreed to purchase this equipment, and to install the equipment, at the mines by July 15, 2015. By this date, [Revelation Energy] has also agreed to provide the Secretary with receipts showing that the equipment was purchased. [Revelation Energy] has also agreed to update its ground control plan to specify that the equipment will be purchased and installed by July 15, 2015, and that the equipment will be maintained in good working order thereafter.

Jt. Mot. to Approve Settlement, at 2 (Mar. 11, 2015).

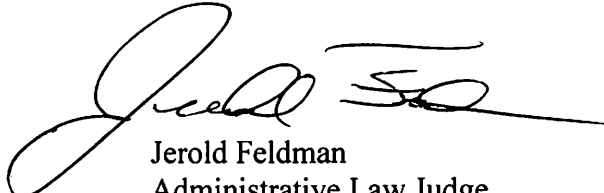
On April 9, 2015, I issued an Order Holding the Joint Motion to Approve Settlement in Abeyance, 37 FMSHRC 970 (Apr. 2015) (ALJ), contingent upon documented compliance by Revelation Energy of the acquisition and installation of the subject equipment specified in the parties’ settlement terms, as well as the required modification of Revelation Energy’s ground control plan.

On September 30, 2015, the Secretary filed a Motion for Final Order Approving Settlement asserting that:

Respondent has provided the Secretary with documentation and evidence demonstrating its implementation of the required cameras, shelters, and two-way radios, and has supplied the necessary revisions to its ground control plan. The Secretary is satisfied with Respondent’s compliance and requests that the administrative law judge approve the joint settlement filed on March 11, 2015.

Mot. for Final Order Approving Settlement, at 2 (Sep. 30, 2015).

I have considered the representations and documentation submitted in this matter and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act. **WHEREFORE**, the motion to approve settlement **IS GRANTED**, and pursuant to the parties' agreement, Alpha Highwall Mining, LLC, and Revelation Energy, LLC, **ARE ORDERED** to pay the \$5,000.00 civil penalty within 30 days of this Order in satisfaction of the two citations at issue.<sup>1</sup> Upon receipt of timely payment, the captioned matter **IS DISMISSED**.



Jerold Feldman  
Administrative Law Judge

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<sup>1</sup> Payment should be sent to the Mine Safety and Health Administration, U.S. Department of Labor, Payment Office, P.O. Box 790390, St. Louis, MO 63179-0390. Please include the Docket No. and A.C. No. noted in the above caption on the check.