FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
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September 19, 2016

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Petitioner	CIVIL PENALTY PROCEEDING Docket No. WEST 2015-0838-M A.C. No. 05-02256-385302
v.	Climax Mine
CLIMAX MOLYBDENUM COMPANY, Respondent	

ORDER GRANTING THE SECRETARY'S MOTION FOR SUMMARY DECISION & ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY DECISION

Before: Judge Manning

This case is before me upon a petition for assessment of civil penalty filed by the Secretary of Labor, acting through the Mine Safety and Health Administration ("MSHA"), against Climax Molybdenum Company ("Climax") pursuant to sections 105 and 110 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 815 and 820 (the "Mine Act"). The parties filed simultaneous cross-motions for summary decision and responses. For the reasons set forth below, the Secretary's Motion for Summary Decision is **GRANTED** and Respondent's Motion for Summary Decision is **DENIED**.

BACKGROUND

On May 7, 2015, MSHA Inspector John C. Kalnins issued Citation No. 8761777 to Respondent under section 104(a) of the Mine Act, 30 U.S.C. § 814(a), alleging a violation of section 56.14107(a) of the Secretary's safety standards. 30 C.F.R. § 56.14107(a). The citation states as follows:

> There were no guards to prevent miners from coming in contact with the mills or the openings in the floor around the mills. There were handrails with warning signs meant to keep the miners out of the hazardous area. A miner coming in contact with moving machine parts or falling thru the floor could receive fatal injuries. This hazard was open and obvious but was not recognized as a hazard.

Inspector Kalnins determined that it was unlikely an injury or illness would be sustained as a result of the violation, but that any injury could reasonably be expected to be fatal. He determined that the violation was not of a significant and substantial nature ("S&S"), would

affect only one person, and was a result of Respondent's moderate negligence. The Secretary proposed a penalty of $263.00 for the alleged violation.

STIPULATED FACTS

On July 5, 2016 the parties submitted joint stipulations, as well as three photographs, i.e., Figure 1a, Figure 1b, and Figure 2. The stipulations are as follows:

1. Respondent Climax Molybdenum Company ("Climax") operates the Climax Mine in Colorado, which mines and mills molybdenum.
2. Climax's mining operations affect interstate commerce.
3. Climax is subject to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.* (the "Mine Act") and jurisdiction of the Mine Safety and Health Administration ("MSHA").
4. Climax is an "operator" as that word is defined in § 3(d) of the Mine Act, 30 U.S.C. § 803(d), at the Climax Mine (Federal Mine I.D. No. 0502256) where the contested citations in these proceedings were issued.
5. The Administrative Law Judge has jurisdiction over these proceedings pursuant to § 105 of the Act.
6. On the dates the citation in this docket was issued, the issuing MSHA inspector was acting as a duly authorized representative of the United States Secretary of Labor, assigned to MSHA, and was acting in his official capacity when conducting the inspection and issuing the MSHA citation.
7. The MSHA citation at issue in these proceedings was properly served upon Climax as required by the Mine Act.
8. The citation at issue in these proceedings may be admitted into evidence by stipulation for the purpose of establishing its issuance.
9. The photographs taken by the issuing inspector, John C. Kalnins, are a fair and accurate representation of the condition of the mills and surrounding area as observed by Mr. Kalnins on the date of the inspection at which the contested citation was issued.
10. Figures 1a and 1b, attached to these stipulations, is an aerial photograph of the two mills.
11. The mills are situated within an enclosed facility which, as shown in Figures 1a and 1b, contains a network of platforms, travelways, and stairways. These two photographs were taken on July 5, 2016 and depict the mills in the condition they existed after the abatement of this citation. They are included primarily to provide context to the general area.
12. The handrails depicted in the photographs are approximately waist-high.
13. Climax demonstrated good faith in abating the violation.
14. As part of the milling process, Climax employs two mills – one semi-autogenous grinder (SAG) mill, and one ball mill. The primary function of the mills is to grind the ore, and the key feature of each is the large cylinder (or drum) into which ore is fed – the cylinder rotates, churning the ore, while heavy metal balls inside the cylinder facilitate the grinding process.
15. It is the rotating cylinders of each of the two mills that constitute the "moving machine parts" that are relevant to this contest proceeding.

16. At the time of the inspection at which the contested citation was issued, there existed at certain places along the handrail system metal guarding approximately eight feet in height from the floor. The yellow guarding shown in Figure 2 is representative of this.
17. The locations at which the yellow guarding existed at the time of inspection were within seven feet of the exposed moving parts of the mills. At all other locations, the handrails were situated at least seven feet away from the exposed moving parts of the mills.
18. Gates are situated at various points in the handrail system to provide access to the mills. It is the policy of Climax that these gates are kept locked when the mills are operating and that no miner (or any other person) is to work or walk on the inside (the mill side) of the handrails except for maintenance when the mills are locked and tagged out.

SUMMARY OF PARTIES' ARGUMENTS

The Secretary argues that Respondent violated section 56.14107(a) when it failed to guard the rotating cylinders of the two mills. Sec'y Mot. 4. While portions of the mills were guarded, other areas were not. The unguarded areas were surrounded by handrails with locked entry gates. Perimeter or area guarding, such as fences or locked gates, does not meet the requirements of the cited standard. *Id.* at 5 (citing *Walker Stone Co. Inc.*, 16 FMSHRC 337 (Feb. 1994) (ALJ) and *Oil-Dri Production Co.*, 32 FMSHRC 1761 (Nov. 2010) (ALJ)). *Id.* The fact that the operator had a policy prohibiting miners from walking or working in the areas inside the handrails unless the mills were locked and tagged out is irrelevant to the question of whether there was a violation. *Id.* 5-6. Here, there is no dispute that "miners entered the gated area of the mills for maintenance of the moving machine parts; thus a violation exists under strict liability." *Id.* 7. While section 56.14107(b) contains an exception to the guarding requirement when walking or working surfaces are at least seven feet away from the moving machine parts, that exception does not apply to the situation at hand because the areas inside the handrails and gates were accessed to conduct maintenance. *Id.* Finally, the Secretary argues that a miner coming in contact with these moving machine parts could suffer a fatal injury and that the violation was the result of moderate negligence given its open and obvious nature. *Id.* 8.

Climax argues that Citation No. 8761777 should be vacated because the cited areas fit within the guarding exception set forth in section 56.14107(b). The exception permits moving machine parts to remain unguarded when those parts are at least seven feet from walking and working surfaces. Here, guards were not needed because the only walking or working surfaces where guards had not been installed were at least seven feet from the moving machine parts on the mills. Climax Mot. 1-2. The operator "clearly delineated the walking and working surfaces more than seven feet from the mills with contiguous waist-high handrail barriers and signage, and therefore did not need additional guarding[.]" *Id.* 6. Miners do not walk or work in the areas inside the handrails unless the mills are locked and tagged out. *Id.* 6, 10-11. Finally, Climax asserts that, even if the court were to accept the Secretary's position, given MSHA's lack of prior enforcement and the clear language of the guarding exception standard, the citation should be vacated based on lack of notice of the Secretary's interpretation. *Id.* 6-7.

The Secretary, in his response to Respondent's motion, argues that the use of signage to indicate "danger," the existence of a lock out tag out policy, and any evidence that persons never worked or walked by the mills unless the mills were locked out and tagged out are immaterial to

the determination of whether a violation existed. Sec'y Response. 1-3. Further, the Secretary argues that the lack of enforcement of the standard in the past is an issue addressed through the negligence analysis and a reasonably prudent person would have understood that the mills required guarding based upon the plain language of the cited standard. *Id.* 3.

Climax, in its response to the Secretary's motion, reiterates many of the same points made in its motion for summary decision, and stresses that when machine parts are not moving it does not matter whether an adjacent space is a walking or working surface since no guarding is required. Climax Response 1-2. Further, persons only perform maintenance when the mills are locked out and tagged out and there is no evidence that that this policy is not followed. *Id.* 2. Furthermore, the Secretary's interpretation of subsection (b) of the standard is unreasonable since, "under his logic, no amount of distance between a walking or working surface and moving parts would suffice because there would always be the possibility that a miner could find a way to access the moving parts and perform maintenance without first locking and tagging out the machinery." *Id.* 2

DISCUSSION AND ANALYSIS

Commission Procedural Rule 67 sets forth the grounds for granting summary decision, as follows:

> A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions, and affidavits, shows:
> (1) That there is no genuine issue as to any material fact; and
> (2)That the moving party is entitled to summary decision as a matter of law.

29 C.F.R. § 2700.67(b).

The Commission has long recognized that "summary decision is an extraordinary procedure." *Energy West Mining Co.,* 16 FMSHRC 1414, 1419 (July 1994) (quoting *Missouri Gravel Co.,* 3 FMSHRC 2470, 2471(Nov.1981)). The Commission has analogized Commission Procedural Rule 67 to Federal Rule of Civil Procedure 56. *Hanson Aggregates New York, Inc.*, 29 FMSHRC 4, 9 (Jan. 2007); *See also Energy West*, 16 FMSHRC at 1419 (citing *Celotex Corp v. Catrett*, 477 U.S. 317, 327 (1986)). When the Commission reviews a summary decision under Rule 67, it looks "'at the record on summary judgment in the light most favorable to . . . the party opposing the motion,' and that 'the inferences to be drawn from the underlying facts contained in [the] materials [supporting the motion] must be viewed in the light most favorable to the party opposing the motion.'" *Hanson Aggregates New York Inc.*, 29 FMSHRC at 9 (quoting *Poller v. Columbia Broadcasting Sys., Inc.*, 368 U.S. 464, 473 (1962); *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962)).

The citation was issued under section 56.14107(a) which requires mine operators to guard moving machine parts in order to protect against persons coming in contact with those parts. 30 C.F.R. § 56.14107(a). Subsection (b) of the standard provides an exception to the

guarding requirement when the moving machine parts are at least seven feet away from walking or working surfaces. 30 C.F.R. § 56.14107(b). In order for the Secretary to sustain a violation in this case the undisputed material facts must establish a violation under subpart (a) of the cited standard. As the Secretary correctly points out, this involves a three step analysis. Sec'y Mot. 4. First, the court must determine whether moving machine parts were present. Second, if moving machine parts were present, then the court must then look to see whether those parts were guarded. Third, if the moving machine parts were unguarded, the court must determine whether those parts were at least seven feet away from walking or working surfaces.

With regard to the first step of the analysis, the parties have stipulated that "two rotating cylinders of each of the two mills" are "moving machine parts" as contemplated by the cited standard. Jt. Stip. 15. Consequently, I must next determine whether the moving machine parts were guarded. The Secretary states in a footnote that the areas of the rotating cylinders that "were guarded by yellow metal guarding" are not at issue. Sec'y Mot. 4 n. 1. Rather, he only takes issue with the areas where handrails and locked gates were present in lieu of guards. Sec'y Mot. 4. Accordingly, I have restricted my analysis to these areas where handrails, and not the 8 foot tall yellow metal guarding, were present.

I find that moving machine parts on the two mills were not guarded. Climax, in its motion, concedes that that the moving machine parts were not guarded. It does not argue that the handrails were guards. [1] Rather, it argues that guarding was not required in these areas because the walking and working surfaces were not within seven feet of the moving machine parts. Climax Mot. 7-9. Aside from the handrails, no other guarding is alleged to have been present. Accordingly, I find that moving machine parts of the two mills were not guarded in areas where only handrails, and not the 8 foot tall yellow metal guarding, were present.

The final element of my analysis, i.e., whether the moving parts of the mills were more than seven feet from walking and working surfaces, is the key issue raised in this case. The parties are in agreement that the "handrails were situated at least seven feet away from the

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[1] Climax, in a footnote, states that it believes the handrails "could qualify as sufficient guards in their own right, even in the absence" of the guarding exception in section 56.14107(b). However, it then goes on to say that the issue is not one it asks the Commission to address. Climax Mot. 10 n. 2. Nevertheless, I note that a handrail is generally not a guard. The term "guard" is not defined in the Secretary's regulations. "In the absence of a statutory or regulatory definition of a term, the Commission applies the ordinary meaning of that term." *Simola, emp. by United Taconite, LLC*, 34 FMSHRC 539, 544 (Mar. 2012). The dictionary defines a "guard" as "a protective or safety device; . . . a device for protecting a machine part or the operator of a machine." *Webster's New Collegiate Dictionary* 505 (1979). While the handrails and gates delineated the working areas outside the handrails from the areas inside the handrails, they did not protect the machine parts from being contacted by a person. Moreover, when the term "guard" is viewed in the context of surrounding standards, such as section 56.14112(a)(1) which requires that guards "[w]ithstand the vibration, shock, and wear to which they will be subjected during normal operation[,]" it is clear that the Secretary contemplated that guards would typically be attached to the subject equipment. The handrails at issue certainly do not fit within this concept of what constitutes a guard.

moving machine parts of the mills." Jt. Stip. 17. The handrails, at the very least, delineated the walking or working surface on the outside of the handrails from the areas between the handrails and the moving machine parts. However, the Secretary alleges that the areas between the handrails and the moving machine parts of the mills are also walking or working surfaces. I agree. The parties have stipulated that miners "work or walk on the inside (the mill side) of the handrails" in order to conduct maintenance. Jt. Stip. 18. While the term "walking or working surface" as used in the standard is not defined, conducting maintenance in the areas constitutes working in the areas.[2] Therefore, I find that the areas inside the handrails were working surfaces and that those surfaces were within seven feet of the moving machine parts.[3]

Climax raises two arguments that are essentially one and the same. First, it argues that, because the mill parts would not be moving at the particular time when miners were inside the rails, there were no "moving machine parts" to guard. Climax Response 3. Second, it argues that the areas inside the handrails are not "walking or working surfaces" because no one would ever be in the areas unless the mills were locked out.[4] *Id.* Climax asserts that it is the operator's policy to keep the gates in the handrails locked when the mills are operating and MSHA has no evidence that anyone ever worked in the areas while the mills were in operation and the machine parts were moving. Climax Mot. 6, 10-11. I find these arguments unpersuasive.

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[2] Climax cites a number of cases for the proposition that areas must be "regularly accessed or susceptible to regular access by employees," in order for the areas to be considered a walking or working surfaces and for the guarding requirement to be triggered. Climax Response 5-8. Climax misses the point that the area inside the handrails was in fact a working surface. As a result, miners would be in the area and in close proximity to unguarded machine parts. Unlike many of the cases cited by Climax in its response, there is no dispute that maintenance was performed on the machinery that was inside the handrails. The record does not disclose the frequency of such maintenance, but that factor would be considered when analyzing the gravity of the violation.

[3] As an aside, I note that the guarding exception set forth in in subpart (b) is designed to address situations where contact with the moving machine parts is physically impossible or very difficult. Here, while persons were not permitted to go inside the handrails when the mills were in operation, someone could easily do so and come in contact with moving parts. Other than a handrail, there was no impediment to entering the areas. Because no guarding was present in these areas, a person inside the handrails would have had nothing between him and the mill cylinders at issue. Many of the administrative law judge decisions cited by Climax involve moving machine parts that were physically difficult to gain access to.

[4] Climax states that "MSHA has . . . conceded that, at walking and working surfaces within seven feet of the mills, Climax was in compliance with the standard[,]" Climax Mot. 7. I disagree. The stipulations cited for this proposition, i.e., Jt. Stips. 16 and 17, state only that guarding was present in some areas within seven feet of the moving machine parts, while handrails at least seven feet away from the moving machine parts were present in other areas. Those stipulations do not address whether there were unguarded moving machine parts within seven feet of walking or working surfaces on the inside of the handrails.

Once it has been determined that machinery or equipment includes moving machine parts, those parts must be guarded. The standard applies whether or not those parts are moving at any particular time. The parties agree that the two rotating cylinders are moving machine parts. As a result I find that the cylinders must be guarded at all times. The only time when the parts are not required to be guarded is when repairs are taking place and steps have been taken by the operator to power off the equipment and block it against motion.[5] 30 C.F.R. § 56.14105. Once the repairs have been completed, the guards must be replaced. Here, no guards were present and the moving parts were exposed. Further, just as the standard applies whether or not parts are moving at a particular time, the question of whether an area is a walking or working surface is not dependent on whether persons enter the area when the equipment is operating or it is locked out. Rather, the issue is simply whether persons work or walk on the surface. Here, as discussed above, the areas inside the handrails and gates were working surfaces where persons performed maintenance.

In *Nelson Quarries, Inc.*, 36 FMSHRC 3143, 3146 (Feb. 2014) (ALJ) this court stated:

> The Commission has held that a violation of a guarding standard requires a "reasonable possibility of contact and injury" that includes "contact stemming from inadvertent stumbling or falling, momentary inattention, or ordinary human carelessness." *Thompson Brothers Coal Company, Inc.*, 6 FMSHRC 2094, 2097 (Sept. 1984). To determine whether a reasonable possibility exists, the Commission stated that all "relevant exposure and injury variables, e.g., accessibility of the machine parts, work areas, ingress and egress, work duties, and as noted, the vagaries of human conduct" must be considered. *Id.*

The Commission's concern in *Thompson Brothers* is directly applicable to the present matter. Even though Climax had a policy prohibiting persons from entering the gates when the mill was in operation, the standard is meant to account for the kind of momentary inattention or ordinary human carelessness that would be associated with a miner entering the area when the mills are in operation, or when the mill parts are not moving but the mills are not locked or tagged out. "Even a skilled employee may suffer a lapse of attentiveness, either from fatigue or environmental distractions" and enter the area without first shutting down the mills. *Great Western Electric Co.*, 5 FMSHRC 840, 842 (May 1983). The parties stipulated that miners tasked with maintenance would be in the area. Jt. Stip. 18. While the handrails, gates, signage, policies and procedures would dissuade a miner from entering the areas on the inside of the handrails, only guards on the moving machine parts will provide a physical barrier between the individual working in the areas and the cylinders of the two mills.[6] The areas inside the

[5] 30 C.F.R. § 56.14112(b) does provide an exception allowing guards to be removed while the equipment is operating when testing or adjustment cannot be performed without removal of the guard.

[6] The Secretary, in promulgating the cited standard, stated in the preamble that "[g]uards provide a physical barrier, which offers the most effective protection from hazards associated with

handrails are working surfaces even if every miner, past and future, locks out and tags out the mills before entering the areas. Accordingly, I find that, based on the undisputed material facts, a violation is established.[7]

Climax states that "[u]nder the Secretary's logic a mine operator could erect a perimeter fence around moving machine parts at a radius of 10, or 100, or even 1000 or more feet, and yet that would still violate subsection (a) because there would always be a chance that a miner might enter within the fence line and perform work on the moving machine parts without first locking and tagging out the machinery." Climax Response 10. It argues that this interpretation is unreasonable since all moving parts require occasional maintenance. I disagree with Climax's assertion and find that the Secretary's interpretation is reasonable given the language and purpose of the cited standard, as well as the Commission's holding in *Thompson Brothers*. If work is going to be conducted within seven feet of unguarded parts that can move, guarding must be present. The Secretary's concern regarding the use of a fence or handrails is generally not that someone will reach over the fence or handrails and contact the moving machine parts, but rather that someone will go inside the fence or handrails in order to carry out assigned work without first locking out the machinery and he will come in contact with the moving machine parts. The purpose of the standard is to prevent just such an occurrence because, as stated in *Thompson Brothers*, "ordinary human carelessness" and "the vagaries of human conduct" cannot always be accounted for.

Respondent is really arguing with the language of the safety standard. Under the interpretation urged by Climax, an operator would not be required to provide guards for moving machine parts at a surface operation if it installs a locked perimeter fence at least seven feet from the machinery and instruct employees to always lock out and tag out the machinery before entering the area. That is not what the language of the safety standard provides and it is not how this safety standard has been enforced by the Secretary or interpreted by the Commission.

I also find that Climax had notice of the Secretary's enforcement position. Climax asserts that the Secretary did not provide "any notice that it would treat walking or working surfaces seven or more feet from moving machine parts . . . as somehow not falling within the scope of" the guarding exception set forth in section 56.14107(b). Climax Mot. 13. However, Climax's argument misses the point. As with its argument regarding the fact of violation, much of Climax's notice argument is premised on its belief that the areas inside the handrails were not a walking or working surface. However, for reasons discussed above, the areas inside the

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moving machine parts. MSHA recognizes that guards provide only one of several safety measures for preventing injuries which can result from contact with moving machine parts. Proper work procedures, safety training, and attentiveness to hazards all play a role in reducing those injuries." Standard for Loading, Hauling, and Dumping and Machinery and Equipment at Metal and Nonmental Mines, 53 Fed. Reg. 32496-01, 32509 (Aug. 25, 1988). Here, while Climax's policies and procedures prohibiting miners from entering the area did provide a degree of safety, they did not satisfy the standard's requirement.

[7] While the citation, as issued, involved allegations of unguarded openings in the floor around the mill, the Secretary did not raise the issue in his motion, nor have the parties addressed the issue in the joint stipulations. Accordingly, I have not addressed the issue.

handrails were clearly walking or working surfaces because miners entered the areas to perform maintenance.

The Secretary has consistently interpreted section 56.14107 to require the actual guarding of moving machine parts and has not allowed the use of perimeter fencing or other barriers to be substituted for guarding. For example, two administrative law judge decisions from the 1990s demonstrate that the Secretary has consistently disallowed using fences with locked gates as a substitute for guarding moving machine parts. *Moline Consumers Company*, 15 FMSHRC 1954 (Sept. 1993) (ALJ); *Wake Stone Company, Inc.*, 16 FMSHRC 337, 356-57 (Feb. 1994) (ALJ).

Climax's failure to identify the areas inside the handrails as walking of working surfaces where miners would be in close proximity to moving machine parts does not absolve it of the fact of violation, nor does it lend itself to a finding that it lacked notice. "[I]f the language of a regulation provides clear and unambiguous notice of its coverage and requirements, no further notice is necessary." *DQ Fire & Explosion Consultants, Inc.*, 36 FMSHRC 3083, 3088 (Dec. 2014) (citing *Bluestone Coal. Co.*, 19 FMSHRC 1025, 1029 (June 1997) and *Nolichuckey Sand Co.*, 22 FMSHRC 1057, 1061 (Sept. 2000)). The cited regulation is clear that moving machine parts need to be guarded to protect persons from coming in contact with those parts. The exception set forth in subpart (b) is equally clear that it applies only when moving machine parts are at least seven feet from the walking or working surfaces. Here, the working surfaces inside the handrails were not at least seven feet away from the moving machine parts and the parts were not guarded to protect against miners in the areas coming in contact with the moving parts. Accordingly, I find Climax was on notice that guards were required.

APPROPRIATE CIVIL PENALTY

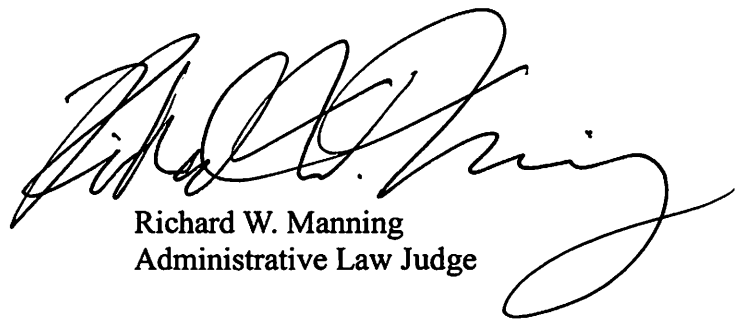
Section 110(i) of the Mine Act sets forth six criteria to be considered in determining an appropriate civil penalty. 30 U.S.C. § 820(i). The Secretary, in his motion, asserted that the violation could result in a fatal injury and that Respondent was moderately negligent. At no point in its motion or response to the Secretary's motion did Climax dispute the Secretary's findings regarding gravity or negligence. Consequently, I find that the Secretary's gravity and negligence designations are affirmed. *See* 29 C.F.R. § 2700.67(d). The violation affected one person and was a result of Climax's moderate negligence. The violation was not S&S. The parties have stipulated that Climax abated the violation in good faith. Jt. Stip. 13. Climax had a history of about 50 violations in the 15 months preceding the issuance of the subject citation, about 16 of which were significant and substantial.[8] Climax is a large operator, owned by Freeport McMoRan Inc., with over 750,000 operator hours worked at the mine in both 2014 and 2015.[9] I find that the originally proposed penalty of $263.00 is appropriate for this violation.

[8] The parties did not submit a history of violations. The court obtained the history data from MSHA's Mine Data Retrieval System, available at http://www.msha.gov/drs/drshome.htm.

[9] The parties did not submit a stipulation regarding the size of the operator. The court obtained the size data from MSHA's Mine Data Retrieval System, available at the same website.

ORDER

For the reasons set forth above, Citation No. 8761777 is **AFFIRMED** as issued. Climax Molybdenum Company is **ORDERED TO PAY** the Secretary of Labor the sum of $263.00 within 30 days of the date of this decision.[10]



Richard W. Manning
Administrative Law Judge

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[10] 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