

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET N.W., 6TH FLOOR
WASHINGTON, D.C. 20006

July 26, 1996

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. CENT 96-41-M
Petitioner : A. C. No. 03-00039-05512A
 :
v. : West Fork Quarry & Plant
WILLIAM W. LONG, EMPLOYED BY :
APAC, ARKANSAS INCORPORATED, :
McCLINTON-ANCHOR DIVISION, :
Respondent :

ORDER ACCEPTING RESPONSE
DECISION APPROVING SETTLEMENT
ORDER OF DISMISSAL

Before: Judge Merlin

This case is before me upon a petition for assessment of a civil penalty under section 110(c) of the Federal Mine Safety and Health Act of 1977.

On April 30, 1996, I disapproved the \$300 settlement motion submitted by the parties and ordered them to submit information to support their motion and directed the Solicitor to file the penalty petition along with all the required exhibits. On May 10, 1996, the Solicitor filed the penalty petition and exhibits, and on July 11, 1996, the parties submitted a second joint motion to approve settlement.

The civil penalty in this case was issued against the respondent, William Long, pursuant to section 110(c) of the Act, 30 U.S.C. ' 820(c), based upon Citation No. 4322730 which alleged a violation of section 56.12016 of the mandatory standards. 30 C.F.R. ' 56.12106. Citation No. 4322730 was issued against Mr. Long-s employer, APAC, Arkansas Incorporated, McClinton-Anchor Division, because the oversize conveyor belt was not deenergized and locked out before employees removed a large rock and applied belt dressing to the head pulley. The violation resulted in an injury. Section 110(c) provides for the assessment of civil penalties against individual agents of an operator for knowing and wilful violations. The originally assessed penalty was \$600 and the proposed settlement now is \$600 which the respondent has already paid.

I accept the parties' representations and conclude that the settlement is appropriate under the six criteria set forth in section 110(i) of the Act.

In light of the foregoing, it is ORDERED that the settlement motion filed on July 11 is ACCEPTED as a response to the April 30 order.

It is further ORDERED that the recommended settlement for this case be APPROVED, and that the respondent having paid, this case is DISMISSED.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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