

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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February 13, 2002

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. CENT 2001-102
Petitioner	:	A.C. No. 29-01825-03553
v.	:	
	:	
SAN JUAN COAL COMPANY,	:	
Respondent	:	La Plata Mine

DECISION APPROVING SETTLEMENT

Before: Judge Schroeder

This matter is before me on a Petition by the Secretary for the assessment of a Civil Penalty for the alleged violation of mine safety regulations. The Petition alleged five violations based on one citation and four orders issued by a mine safety inspector. The Secretary sought, using the special assessment procedure, a total Civil Penalty of \$36,000.00. Pursuant to my prehearing order, the parties have discussed and agreed upon a settlement of this controversy which they have submitted for my approval. Under the proposed settlement, the parties have agreed that the facts which would be demonstrated at a hearing show no aggravated conduct was involved in the four Orders and that mitigating conduct was present in connection with the citation. These facts would support the conclusion that the 104(d) Orders should be modified to 104(a) citations and that the 104(a) citation should warrant a lesser penalty. The Secretary has agreed to accept a Civil Penalty reduced to \$23,500.00 and the Respondent has agreed to pay the reduced amount. I have reviewed the proposed settlement and find it is consistent with the Mine Safety Act and is in the public interest. Therefore, it is

ORDERED that the Motion to Approve Settlement is granted. The Respondent is directed to pay a Civil Penalty of \$23,500.00 within 30 days of the date of this Order. The parties are to bear their own costs. Upon receipt of the Civil Penalty directed in this Order, the Petition is **DISMISSED**.

Irwin Schroeder
Administrative Law Judge
703-756-5232

Distribution:

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