

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, SUITE 1000
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

March 5, 1996

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. KENT 96-38
Petitioner : A.C. No. 15-17044-03573
v. :
 : Docket No. KENT 95-785
THE PITTSBURG & MIDWAY COAL : A.C. No. 15-17044-03570
MINING COMPANY, :
Respondent :
 : Sebree #1 Mine

DECISION

Appearances: Arthur J. Parks, Conference & Litigation
Representative, U.S. Department of Labor,
Madisonville, Kentucky, for Petitioner;
John H. Miller, Esq., The Pittsburg & Midway
Coal Mining Company, Englewood, Colorado, for
Respondent.

Before: Judge Melick

These cases are before me upon petitions for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). During hearings the parties moved to approve a settlement agreement and to dismiss the cases. Deletion of the "Significant and Substantial" findings from Citation No. 4061992 and a reduction in penalty from \$228 to \$51 were proposed. I have considered the representations and documentation submitted, including testimonial and documentary evidence received at hearing, and I conclude that the proffered settlement is acceptable under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is **GRANTED**, and it is **ORDERED** that Respondent pay a penalty of \$51 within 30 days of this order.

Gary Melick
Administrative Law Judge

Distribution:

Arthur J. Parks, Conference & Litigation Representative, U.S.
Dept. of Labor, MSHA, 100 YMCA Drive, Madisonville, KY 42431

John H. Miller, Esq., The Pittsburg & Midway Coal Mining Company,
P.O. Box 6518, Englewood, CO 80155-6518

/jff