

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

April 6, 1995

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDINGS
MINE AND SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. KENT 94-908
Petitioner : A.C. No. 15-08293-03578
:
v. : Docket No. KENT 94-
942 :
: A.C. No. 15-08293-03580
R B Coal Company, :
Respondent : R B No. 4 Mine

DECISION

Appearances: Donna E. Sonner, Esq., Office of the Solicitor, U.S. Department of Labor,
Nashville, Tennessee, for the Petitioner;
Susan C. Lawson, Esq., Harlan, Kentucky, for the Respondent.

Before: Judge Feldman

These proceedings concern petitions for assessment of civil penalties filed by the Secretary of Labor against the respondent pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977 (the Act), 30 U.S.C. ' 820(a). The petitions in these cases sought to impose a total civil penalty of \$42,320 for the alleged violations of the cited mandatory safety standards.

These matters were called for hearing on March 14, 1995, in Pineville, Kentucky. At the commencement of the hearing, the parties informed me they had reached a settlement. Consequently, the parties moved for my approval of their agreement that results in a significant reduction in total civil penalties from \$42,320 to \$5,690. The settlement terms include vacating Imminent Danger Order No. 4235989 in Docket No. KENT 94-980. The parties' agreement with respect to Docket No. KENT 94-942 includes modification of 104(d)(1) Citation No. 4239646 to a 104(a) citation as well as modification of 104(d)(1) Order Nos. 4239645, 4239654, 4239655 and 4239657 to 104(a) citations. These modifications lower the degree of negligence attributable to the respondent for the cited violations from high to moderate. Finally, the agreement contemplates the removal of the significant and substantial designation from modified 104(a) Citation No. 4239645 and Citation No. 4240176 in Docket No. KENT 94-942.

ORDER

I have considered the representations of counsel presented at the hearing in support of the proposed agreement and I conclude that the settlement terms are appropriate under the criteria set forth in section 110(i) of the Act, 30 U.S.C. ' 820(i). Accordingly, the parties' joint motion for the approval of settlement IS GRANTED and IT IS ORDERED that the respondent pay a penalty of \$5,690 within 30 days of the date of this order. Upon timely receipt of payment, these cases ARE DISMISSED.

Jerold Feldman
Administrative Law Judge

Distribution:

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