

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES

2 SKYLINE, 10TH FLOOR  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

May 13, 1996

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. LAKE 96-17  
Petitioner : A. C. No. 11-00877-04131  
v. :  
: Wabash Mine  
AMAX COAL COMPANY, :  
Respondent :

**AMENDED DECISION**

Appearances: Ruben R. Chapa, Esq., Office of the Solicitor,  
U.S. Dept. of Labor, Chicago, Illinois for  
Petitioner;  
R. Henry Moore, Esq., Buchanan Ingersoll P.C.,  
Pittsburgh, Pennsylvania for Respondent.

Before: Judge Melick

Pursuant to Commission Rule 79, the attached corrected page  
in the decision made May 2, 1996, is hereby substituted.

Gary Melick  
Administrative Law Judge

Distribution:

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This case is before me upon the petition for civil penalty filed by the Secretary of Labor pursuant to Section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801, *et seq.*, the "Act," charging the Amax Coal Company (Amax) with two violations under the Act and proposing civil penalties of \$2,809 for those violations.

Order No. 4263998

At hearing petitioner filed a motion to approve a settlement agreement as to this order. A reduction in penalty from \$2,500 to \$2,000 was proposed. Based on the representations and documentation submitted I concluded that the proffered settlement was acceptable under the criteria set forth in Section 110(i) of

the Act. That determination is here reconfirmed and an order directing payment of the penalty is incorporated herein.

Citation No. 4264052

This citation charges as follows:

"The 25/3W haulageway was not kept free of wet and muddy conditions. At No. 29 and from 10 to 12 crosscuts mud and water up to 24 inches in depth affected the control of equipment."

This citation was issued by MSHA Inspector Robert Stamm on September 5, 1995, based upon Safeguard No. 3536015 issued