

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

April 16, 1998

SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket Nos. LAKE 98-37-D
on behalf of SHERRY UDE and	:	LAKE 98-38-D
BRETT UDE,	:	
	:	
Complainants	:	VINC CD 97-01
v.	:	
	:	Razor Back Mine
ILLINI ENERGY RESOURCES, LLC.,	:	Mine ID 11-03002
Respondent	:	

ORDER OF CONSOLIDATION AND DECISION APPROVING SETTLEMENT

Before: Judge Bulluck

These cases concern discrimination proceedings filed pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977 ("the Act"), 30 U.S.C. § 815(c)(2). Pursuant to unopposed motion of the Secretary, these cases are hereby consolidated for administrative processing.

The Secretary, on behalf of Sherry Ude and Brett Ude, alleges that the Udes were unlawfully denied work opportunities and terminated on or about May 9, 1997, as a result of Sherry Ude having engaged in protected activity. The Secretary seeks reinstatement of the Udes to their former positions with backpay (including overtime) and interest, employment benefits and seniority, and expungement of any reference to the protected activity from their personnel records. Additionally, the Secretary seeks orders directing Respondent to cease and desist discrimination of the Udes, posting of a notice of violation, and payment of a \$9,000.00 civil money penalty.

The parties have filed a Joint Motion to Approve Settlement and Dismiss Action. I have reviewed the settlement agreement. Under its terms, the Respondent is required to take the following actions:

1. pay Sherry Ude backwages in the amount of \$17,000.00;
2. pay Brett Ude backwages in the amount of \$3,000.00; and
3. pay a civil money penalty in the amount of \$3,000.00 for the discrimination

violation.

The settlement is appropriate and is in the public interest. **WHEREFORE**, the motion for approval of settlement is **GRANTED**, and it is **ORDERED** that the Respondent comply with the terms set forth above and pay a penalty of \$23,000.00 in seven installments, within and not to exceed 6 months, as specified in the settlement agreement. Upon Respondent's full compliance with all terms of the settlement, these proceedings are **DISMISSED**.

Jacqueline R. Bulluck
Administrative Law Judge

Distribution:

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