

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

April 24, 2001

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. LAKE 2000-98-M
Petitioner	:	A.C. No. 21-02669-05520
v.	:	
	:	
SHAMROCK ENTERPRISES,	:	
Respondent	:	Crusher 22-25

DECISION APPROVING SETTLEMENT

Before: Judge Schroeder

This case is before me on a Petition by the Secretary for the assessment of a Civil Penalty for alleged violations of safety regulations under the Federal Mine Safety Act. The Petition proposed a Civil Penalty of \$24,326.00 for alleged violations of two orders and seven citations in the operation of a sand and gravel facility in Minnesota. After receipt of an answer, I issued a prehearing order which required an effort at negotiation. On April 17, 2001, the counsel for the Secretary filed a Motion to Approve Settlement and Dismiss Proceedings. The Motion represents that the parties have negotiated a settlement which requires several actions.

First, the Respondent has agreed to pay a Civil Penalty in the reduced amount of \$11,117.00. Second, the Respondent has agreed to conduct an eight-hour meeting to instruct all mine personnel on proper policy and procedure to ensure compliance with health and safety regulations. Third, the Respondent has agreed to instruct equipment operator on specific operational and inspection issued. Fourth, the Secretary has agreed to vacate two Orders and one citation.

The agreement to a reduction in the Civil Penalty is based on a reevaluation by the Secretary of the facts and circumstances concerning the various orders and citations. I have reviewed the record. I find the settlement agreement is consistent with the penalty criteria in the Federal Mine Safety Act. I also find the settlement agreement is in the public interest. Therefore, it is

ORDERED that the Motion to Approve Settlement and Dismiss Proceeding is granted. The Respondent is directed to pay a Civil Penalty of \$11,117.00 within 30 days of this Order. The Respondent is directed to comply with the various undertakings in the settlement agreement. The parties are to bear their own costs. Upon receipt of the Civil Penalty directed by this Order, the Petition is **DISMISSED**.

Irwin Schroeder
Administrative Law Judge

Distribution:

Maya Ewing, Esq., Office of the Solicitor, U.S. Department of Labor, 230 S. Dearborn St.,
8th Floor, Chicago, IL 60604

Carrol P. Kelley, Secretary, Shamrock Enterprises, 6415 Bandel Road, NW., Rochester,
MN 55901

/mh