

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

July 17, 1995

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. PENN 95-80
Petitioner : A.C. No. 36-05466-04033
v. :
: Mine: Emerald No. 1
CYPRUS EMERALD RESOURCES :
CORP., :
Respondent :

DECISION APPROVING SETTLEMENT

Appearances: Joseph T. Crawford, Esq., Office of the
Solicitor, U.S. Department of Labor,
Philadelphia, Pennsylvania, for Petitioner;
R. Henry Moore, Esq., Buchanan, Ingersoll, P.C.,
Pittsburgh, Pennsylvania, for Respondent.

Before: Judge Amchan

This case is before me upon a petition for assessment of civil penalty under section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. ' 801 et seq. Upon commencement of the hearing on May 31, 1995, the parties advised me that they had achieved a settlement of the entire case. The terms of the settlement are as follows:

Order No. 3668845: The penalty is reduced from \$1,000 to \$600.

Order No. 3668699: The penalty is reduced from \$5,500 to \$4,000.

Order No. 3672349: This order is modified to a section 104(a) citation. The unwarrantable failure allegation is deleted and the penalty is reduced from \$5,000 to \$2,000.

Order No. 3672354: This order is modified to a section 104(a) citation. The unwarrantable failure allegation is deleted and the penalty is reduced from \$4,200 to \$3,000.

Order No. 3672355: This order is modified to a section 104(a) citation. The unwarrantable failure allegation is deleted and the penalty is reduced from \$9,500 to \$6,000.

I have considered the representations and documentation submitted and I conclude that the proffered settlement is consistent with the criteria in section 110(i) of the Act.

ORDER

WHEREFORE IT IS ORDERED that the motion for approval of settlement is **GRANTED** and Respondent shall pay the approved penalties within 30 days of this decision. Upon such payment this case is **DISMISSED**.

Arthur J. Amchan
Administrative Law Judge

Distribution:

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