

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041
March 15, 2000

JIM WALTER RESOURCES, INCORPORATED, Contestant v.	:	CONTEST PROCEEDINGS
	:	Docket No. SE 99-6-R
	:	Citation No. 7665505; 9/23/98
	:	
SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Respondent	:	Docket No. SE 99-7-R
	:	Citation No. 7665506; 9/23/98
	:	
	:	Docket No. SE 99-8-R
	:	Citation No. 7665507; 9/23/98
	:	
	:	Docket No. SE 99-9-R
	:	Citation No. 7665508; 9/23/98
	:	
	:	Docket No. SE 99-10-R
	:	Citation No. 7665512; 9/24/98
	:	
	:	Central Supply Shop
	:	Mine ID 01-02515
	:	
SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Petitioner v.	:	CIVIL PENALTY PROCEEDING
	:	Docket No. SE 99-66
	:	A.C. No. 01-02515-03521
	:	
	:	Central Shop
JIM WALTER RESOURCES INCORPORATED, Respondent	:	

DECISION APPROVING SETTLEMENT ON REMAND

Before: Judge Feldman

On January 31, 2000, the Commission remanded these matters for assessment of the appropriate civil penalties after the Commission determined the Central Supply Shop operated by Jim Walter Resources, Inc. (JWR) is subject to the jurisdiction of the Federal Mine Safety and Health Act of 1977, 30 U. S.C. § 801 et seq. (1994) (the Mine Act). 22 FMSHRC 21 (January 2000). Specifically, the Commission concluded JWR’s Central Supply Shop is a “coal or other mine” as contemplated by section 3(h)(1) of the Mine Act, 30 U. S.C. § 802(h)(1).

In response to the Commission's decision, on February 28, 2000, the Secretary filed a Motion to Approve Settlement wherein JWR agreed to pay the \$55.00 civil penalty initially proposed by the Secretary for each of the three non-significant and substantial (non-S&S) citations pertaining to JWR's Central Supply Shop.¹ I have considered the representations in this case, and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement **IS GRANTED**, and **IT IS ORDERED** that Jim Walter Resources, Inc., pay a civil penalty of \$165.00 in satisfaction of the three citations in issue within 45 days of this order, and, upon receipt of timely payment, the contest proceedings in Docket Nos. SE 99-8-R, SE 99-9-R and SE 99-10- R, and the civil penalty proceeding in Docket No. SE 99-66, **ARE DISMISSED**.²

Jerold Feldman
Administrative Law Judge

Distribution:

Guy W. Hensley, Esq., Jim Walter Resources, Inc., P.O. Box 133, Brookwood, AL 35444
(Certified Mail)

William Lawson, Esq. Office of the Solicitor, U.S. Department of Labor, Suite 150, 100
Centerview Drive, Chambers Building, Highpoint Office Center, Birmingham, AL 35216
(Certified Mail)

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¹ The citations are Citation Nos. 7665507, 7665508 and 7665512.

² The Secretary initially proposed a total civil penalty of \$440.00 for eight citations in Docket No. SE 99-66. The initial decision in Docket No. SE 99-66 imposed a civil penalty of \$275.00 for five citations related to JWR's Central Machine Shop. 21 FMSHRC 495 (May 1999) (ALJ) (corrected by Order issued June 7, 1999). The \$275.00 civil penalty for these five citations, that included the two citations contested in Docket Nos. SE 99-6-R and SE 99-7-R, has been paid. The additional \$165.00 civil penalty JWR now has agreed to pay for the remaining three citations in Docket No. SE 99-66 will result in payment of the total \$440.00 civil penalty initially proposed by the Secretary.