

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
601 NEW JERSEY AVENUE, N.W., SUITE 9500
WASHINGTON, D.C. 20001

September 28, 2005

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. VA 2005-17
Petitioner	:	A.C. No. 44-07048-48293
v.	:	
	:	
HUBBLE MINING COMPANY, LLC,	:	Mine No. 4
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Barbour

This case concerns a proposal for assessment of civil penalty filed pursuant to Section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815(d), the Act, seeking a civil penalty assessment for one alleged violation of a mandatory safety standard found in Part 75, Title 30, Code of Federal Regulations.

The parties have settled the matter and the Secretary has filed a motion pursuant to Commission Rule 31, 29 C.F.R. § 2700.31, seeking approval of the proposed settlement. The proposed settlement is as follows:

<u>Citation/ Order No.</u>	<u>Date</u>	<u>30 C.F.R.</u>	<u>Assessment</u>	<u>Settlement</u>
7342837	11/22/04	75.1725(c)	\$2,500.00	\$100.00

In support of the proposed settlement, the parties have submitted information pertaining to the six statutory civil penalty criteria found in Section 110(i) of the Act, including information regarding Respondent’s ability to pay and history of previous violations.

In particular, with regard to Citation No. 7342837, which was issued because a conveyor belt was not locked out while repairs were underway, the Secretary states that following a conference, the inspector’s original finding that the violation was a significant and substantial contribution to a mine safety hazard was deleted and the inspector’s gravity finding was changed to indicate the violation was unlikely to result in an injury to miners. The Secretary believes the settlement amount reflects these changes.

After review and consideration of the pleadings, arguments and submission in support of the settlement motion, I find the proposed settlement is reasonable and in the public interest. Pursuant to 29 C.F.R. § 2700.31, the motion is **GRANTED**, and the settlement is **APPROVED**.

ORDER

Respondent is **ORDERED** to pay a civil penalty of \$100.00 in satisfaction of the violation in question. Payment is to be made to MSHA within 30 days of the date of this proceeding. Upon receipt of full payment, this proceeding is **DISMISSED**.

David F. Barbour
Administrative Law Judge
(202) 434-9980

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