

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

July 15, 1997

BLUESTONE COAL CORPORATION,	:	CONTEST PROCEEDING
Contestant	:	
v.	:	Docket No. WEVA 93-165-R
	:	Order No. 2723399; 1/13/93
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Keystone No. 6 Strip
ADMINISTRATION (MSHA),	:	Mine ID 46-03404
Respondent	:	
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEVA 94-117
Petitioner	:	A. C. No. 46-03404-03509
v.	:	
	:	Keystone No. 6 Strip
BLUESTONE COAL CORPORATION,	:	
Respondent	:	

DECISION ON REMAND **AND** **ORDER APPROVING SETTLEMENT**

Before: Judge Barbour:

On June 18, 1997, The Commission reversed in part my decision in these matters by overturning my conclusion that Bluestone did not violate 30 C.F.R. ' 77.1600(b), as alleges in Citation No. 2723400 (*Bluestone Coal Corp.*, 19 FMSHRC __ (June 18, 1997)). The Commission remanded the cases to determine whether the violation of section 77.1600(b) was a significant and substantial contribution to a mine safety hazard (S&S violation) and for the assessment of a civil penalty (slip op. 5, 10).

In light of the Commission's decision, the parties have reached a settlement and the Secretary has filed a motion seeking approval of the settlement (29 C.F.R. ' 2700.31). The settlement is as follows:

<u>Citation No.</u>	<u>Date</u>	<u>30 C.F.R. '</u>	<u>Assessment</u>	<u>Settlement</u>
2723400	1/13/93	77.1600(b)	\$6,000	\$500

The citation alleges that mine management did not have traffic rules, signals or warning signs standardize[d] in the steep mountain incline to provide the coal haulage equipment [with] a warning of the steep incline (Citation No. 2723400).

Given the Commission's finding that Bluestone violated the cited standard, the parties have agreed the violation was S&S and Bluestone will pay a civil penalty of \$500. The S&S nature of the violation is consistent with the findings of the Secretary's inspector and the \$500 penalty is consistent with other findings made in my decision (*Bluestone Coal Corp.*, 16 FMSHRC 2500 (December 1994)). Therefore, the proposed settlement is reasonable and in the public interest. Pursuant to 39 C.F.R. ' 2700.31, the Secretary's motion is **GRANTED**, and the settlement is **APPROVED**.

ORDER

Bluestone is **ORDERED** to pay a civil penalty of \$500 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, these matters are **DISMISSED**.

David Barbour
Administrative Law Judge

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