

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

May 25, 1995

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. WEVA 94-401 Petitioner  
: CSI # 5 Mine  
BSC CONSTRUCTION, INC., :  
Respondent :

DECISION APPROVING SETTLEMENT

Before: Judge Hodgdon

This case is before me on 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. ' 815(d). The Secretary, by counsel, has filed a motion to approve a settlement agreement.

The citation in this case alleged two separate violations of the Regulations, Sections 48.28(a) and 48.31(a), 30 U.S.C. ' 48.28(a) and 48.31(a), and penalties were assessed for each violation. The Secretary has modified the citation to vacate all references to Section 48.31(a). A reduction in penalty from \$400.00 to \$300.00 is proposed for the remaining violation. Having considered the representations and documentation submitted, I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act, 30 U.S.C. ' 820(i).

Accordingly, the motion for approval of settlement is GRANTED and it is ORDERED that Respondent pay a penalty of \$300.00 within 30 days of the date of this order. On receipt of payment, this case is DISMISSED.

T. Todd Hodgdon  
Administrative Law Judge

**Distribution:**

Caryl L. Casten, Esq., Office of the Solicitor, U.S. Department of Labor, 4015 Wilson Blvd.,  
Arlington, VA 22203

Mr. Roger L. Glover, Operations Manager, BSC Construction, Inc., P.O. Box 945, Uniontown,  
PA 15401

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