

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1244 SPEER BOULEVARD #280
DENVER, CO 80204-3582
303-844-3993/FAX 303-844-5268

May 16, 2001

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 2000-349
Petitioner	:	A.C. No. 48-01186-03641
	:	
v.	:	
	:	Shoshone #1 Mine
RAG SHOSHONE COAL CORP.,	:	
Respondent	:	

DECISION

Appearances: Kristi L. Floyd, Esq., Office of the Solicitor, U.S. Department of Labor, Denver, Colorado, for Petitioner
R. Henry Moore, Esq., Buchanan Ingersoll, Pittsburgh, Pennsylvania, for Contestant.

Before: Judge Cetti

On July 12, 2000, at the request of the parties, an Order was issued consolidating the above-captioned penalty case with the corresponding contest cases WEST 99-342-R and WEST 99-384-R. All three cases concern the validity of the 060 code. Although this penalty proceeding was consolidated with the corresponding contest proceedings I did not assess a penalty in the consolidated penalty case when I issued my decision in the consolidated cases on April 9, 2001. Consequently I do so now, as requested by the parties. I assess the penalty on the facts and circumstances established at the hearing where RAG Shoshone Coal Corp. Is challenging the validity of the 060 code. On the basis of the hearing record, including the stipulations of the parties I find the appropriate penalty under the facts and circumstances establish at the hearing a civil penalty of \$55.00 for each of the two citations involved in this matter. It is clear from the record, however, that Shoshone does not waive its right to seek review of the decision of April 9, 2001, at Docket Nos. WEST 99-342-R and WEST 99-384-R.

ORDER

It is **ORDERED** that **RESPONDENT PAY** civil penalty assessments in the amounts shown above for each of the violations set forth in the two affirmed citations in this docket.

Payment is to made to the Secretary of Labor within thirty (30) days of the date of this decision and order. Upon receipt of payment, this case is dismissed.

August F. Cetti
Administrative Law Judge

Distribution:

Kristi L. Floyd, Esq., Office of the Solicitor, U.S. Department of Labor, P.O. Box 46550,
Denver, CO 80201-6550 (Certified Mail)

R. Henry Moore, Esq., Buchanan Ingersoll, One Oxford Centre, 301 Grant St., 20th Floor,
Pittsburgh, PA 15219-1410 (Certified Mail)

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