

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
601 New Jersey Avenue, N.W., Suite 9500
Washington, DC 20001

March 28, 2003

BAYOR MINING, INC.,	:	CONTEST PROCEEDING
Contestant	:	
v.	:	Docket No. WEVA 2001-124-R
	:	Citation No. 7188738; 9/5/01
	:	
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Jim's Branch No. 3A
ADMINISTRATION (MSHA),	:	Mine ID 46-08593
Respondent	:	
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEVA 2002-103
Petitioner	:	A.C. No. 46-08593-03529
v.	:	
	:	
	:	
BAYLOR MINING, INC.,	:	Jim's Branch No. 3A
Respondent	:	

DECISION APPROVING SETTLEMENT ON REMAND

Before: Judge Hodgdon

These cases are before me on a Notice of Contest and 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). These consolidated proceedings were reopened and remanded by the Commission. *Baylor Mining, Inc.*, Docket Nos. WEVA 2001-124-R and WEVA 2002-103 (May 30, 2002) (unpublished). The Secretary, by counsel, has filed a motion to approve a settlement agreement. Modification of the level of negligence from “moderate” to “low” and modification of the descriptive narrative in section 8 of the citation are advanced. In return, the Respondent has agreed to pay the proposed penalty in full.

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**, the citation is **MODIFIED** as indicated and the Respondent is **ORDERED TO PAY** a penalty of **\$259.00** within 30 days of the date of this order. In view of the settlement, the hearing scheduled for April 8, 2003, is **CANCELED**.

T. Todd Hodgdon
Administrative Law Judge

Distribution:

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/hs

*this settlement was originally issued March 28, 2003 and a corrected version issued April 2, 2003. The correction had no effect on the terms of the settlement.

