

CCASE:

MSHA V. SHAMROCK COAL

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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.

July 25, 1979

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),

Docket Nos. BARB 76X656-P
BARB 76X661-P
BARB 76X662-P
BARB 76X663-P

v.

SHAMROCK COAL COMPANY
SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),

Docket No. BARB 76X552-P

v.

GREENWOOD LAND AND MINING
COMPANY
DECISION

This is a penalty proceeding under section 109 of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §801 et seq. (1976) (amended 1977) ("the 1969 Act"). On October 11, 1978, the Commission granted the petition for discretionary review filed by Shamrock Coal Company and Greenwood Land and Mining Company. In a summary fashion, petitioners raised arguments regarding the administrative law judge's disposition of 32 notices of violation. Petitioners' arguments generally concern whether the judge erred in finding that the violations occurred and whether the penalties assessed for the violations are excessive. Having reviewed the record and considered the arguments of the parties on review, we conclude that the judge's findings of violations of the cited standards are supported by the record and must be affirmed. We note, however, that our affirmance of the judge's finding of a violation of 30 CFR §77.410 1/ in Docket No. BARB 76X552-P is based only on the lack of an operable backup alarm on petitioners' front-end loader. On the record before us, we do not reach the question of petitioners' responsibility for the lack of a backup alarm on the tandem truck hauling soil for the U.S. Forest Service.

1/ 30 CFR §77.410 provides:

Mobile equipment; automatic warning devices.

Mobile equipment, such as trucks, forklifts, front-end loaders, tractors and graders, shall be equipped with an adequate automatic warning device which shall give an

audible alarm when such equipment is put in reverse.

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We further find that, with the exception of the \$150 penalty assessed for the violation of 30 CFR \$77.410 noted above, the penalties assessed by the judge are reasonable and reflect correct consideration of the statutory criteria set forth in section 109(a)(1) of the 1969 Act. Regarding the violation of 30 CFR \$77.410, we find that a penalty of \$75 is appropriate. Accordingly, the judge's decision is affirmed to the extent that it is consistent with this decision.