

CCASE:
SOL (MSHA) V. MANALAPAN MINING CO.
DDATE:
19941025
TTEXT:

~2027

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	Docket Nos. KENT 93-614
	:	KENT 93-615
v.	:	KENT 93-646
	:	KENT 93-884
	:	
MANALAPAN MINING COMPANY,	:	
INC.	:	

ORDER

In this consolidated civil penalty proceeding arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (1988)("Mine Act"), the Secretary of Labor ("Secretary") and Manalapan Mining Company, Inc. ("Manalapan") have filed with the Commission a joint motion to approve settlement of all matters contained in Docket Nos. KENT 93-614 and 615. Petitioner Manalapan has also filed a motion to voluntarily dismiss its appeal of these cases.

On September 14, 1994, the Commission granted Manalapan's petition for discretionary review of the August 8, 1994, decision of Administrative Law Judge Avram Weisberger in Docket Nos. KENT 93-614 and 615.(Footnote 1) In their joint motion to approve settlement, the parties have agreed to civil penalties lower than those assessed by the judge. The parties have further noted that, in assessing the civil penalties, "the judge did not discuss the six statutory penalty criteria with respect to each violation." Motion at 3.

1 The Commission granted the Secretary's petition for discretionary review of the judge's decision in Docket Nos. KENT 93-646 and 884. These cases remain on review with the Commission.

~2028

Docket Nos. KENT 93-614 and 615 are remanded to the judge, who shall rule on the joint motion to approve settlement. If the joint motion is denied and Manalapan wishes to pursue its appeal, it shall so advise the Commission within 30 days of the judge's decision.

Mary Lu Jordan, Chairman

Joyce A. Doyle, Commissioner

Arlene Holen, Commissioner

Marc Lincoln Marks, Commissioner