

CCASE:  
SOL (MSHA) V. GLEN IRVAN  
DDATE:  
19870129  
TTEXT:

Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

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

v.

GLEN IRVAN CORPORATION,  
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. PENN 86-64  
A.C. No. 36-04596-03507

Bark Camp Strip

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On January 12, 1986, the Secretary of Labor, filed a motion for approval of a settlement reached by the parties in this case. The violations were originally assessed at \$5400 and the parties propose to settle for \$2700.

Three violations are charged, all growing out of a fatal fall-of-material accident. The operator was charged with a violation of 30 C.F.R. 77.1006(b) because an employee was working between a highwall and a front end loader. A penalty of \$4000 was initially assessed. It was also charged with failure to properly conduct a preshift examination, and with having loose, fractured material on a highwall. These violations were initially assessed at \$800 and \$600, respectively. The motion states that the violations were serious and caused by Respondent's negligence. However, the settlement is proposed because Respondent has filed under Chapter 11 of the Bankruptcy Act, and its mining operations have ceased. I have considered the motion in the light of the criteria in section 110(i) of the Act, and in the light of Respondent's financial condition, and conclude that it should be approved.

Accordingly, the settlement motion is APPROVED, and Respondent is ORDERED TO PAY the sum of \$2700 in accordance with an order for distribution which may hereafter be issued by the Bankruptcy Court in the Western District of Pennsylvania.

James A. Broderick  
Administrative Law Judge