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UTAH POWER V. SOL (MSHA)
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

UTAH POWER AND LIGHT COMPANY,
CONTESTANT

CONTEST PROCEEDINGS

v.

Docket No. WEST 87-31-R
Citation No. 2928408; 10/9/86

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

Docket No. WEST 87-32-R
Citation No. 2928409; 10/9/86

Little Dove Mine

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

CIVIL PENALTY PROCEEDING

v.

Docket No. WEST 87-100
A.C. No. 42-01393-03546

Little Dove Mine

UTAH POWER AND LIGHT
COMPANY,

RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Lasher

The parties have reached a settlement of these two contest matters and the related penalty proceeding which collectively involve two citations which, in turn, were each administratively assessed \$20.00 penalties.

Pursuant to the settlement, the Secretary has agreed to vacate Citation No. 2928409, which was contested in Docket No. WEST 87-32-R. The mine operator, Utah Power and Light Company has agreed to voluntarily withdraw the contest of Citation No. 2928408 in Docket No. WEST 87-31-R and to voluntarily pay the \$20.00 civil penalty in full for that violation. The mine operator also agrees in the future to accept the Secretary's position that chiropractic treatment constitutes "other professional treatment" under 30 C.F.R. 50.203(a)(8)(ii) and is therefore reportable under 30 C.F.R. Part 50.

Information contained in the settlement motion reflects that Utah Power and Light Company Mining Division, is a large mine operator with an average history of prior violations and that the violation reflected in Citation No. 2928408 involved low degrees of both seriousness and negligence and was abated in good faith.

ORDER

The various provisions of the settlement appearing to be fully justified, it is Ordered:

1. Utah Power and Light's withdrawal of its contest in Docket No. WEST 87Ä31-R is approved and that proceeding is dismissed;

2. The Secretary's request for vacation of Citation No. 2928409 is approved and such Citation is vacated;

3. With respect to Citation No. 2928408 (Docket No. WEST 87Ä31), Utah Power and Light, if it has not previously done so, is ordered to pay the Secretary of Labor a penalty of \$20.00 within 30 days from the issuance of this decision.

Michael A. Lasher, Jr.
Administrative Law Judge