

CCASE:  
SOL (MSHA) V. MONTANA RESOURCES, INC.  
DDATE:  
19931012  
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION  
1244 SPEER BOULEVARD #280  
DENVER, CO 80204-3582  
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October 12, 1993

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 92-343-M
Petitioner	:	A.C. No. 24-00338-05531
	:	
v.	:	Docket No. WEST 92-705-M
	:	A.C. No. 24-00338-05535
MONTANA RESOURCES, INC.	:	
Respondent	:	Continental Mine

DECISION ON REMAND

Before: Judge Cetti

The stay order in Docket No. WEST 92-343-M is lifted.

On August 3, 1993, the Commission vacated the August 27, 1993, Decision Approving Settlement and remanded this matter to this Judge for appropriate proceedings.

It is clear from the record that the Commission vacated and remanded this matter because there was no true meeting of the minds of the parties as to exculpatory language in paragraph 8 of Respondent's May 17, 1993, motion to approve settlement. As stated by the Commission "it is clear that respondent's motion (to approve settlement) was prematurely filed and should have been denied."

On August 27, 1993, I issued a Post Remand Order directing the parties to inform me as to whether or not they had or could reach a full "genuine settlement agreement" on all issues. The parties were notified that if they could not reach such an agreement I would timely set the matter for a two day hearing in Butte, Montana.

On September 9, 1993, the parties informed this Judge that they had "worked out" a settlement agreement on all issues including the specific wording of the settlement agreement's exculpatory paragraph.

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On October 1, 1993, the Joint Motion to Approve the Settlement Agreement was received in the Commission's Denver office. There has been no objection to any of the provisions of the settlement agreement from any source.

The parties now jointly move for approval of the settlement agreement pursuant to 29 C.F.R. 2700.30. Under the proffered settlement agreement there is a reduction in the initial proposed penalties for a total settlement sum of \$20,000. The citations, initial proposed assessments, the proposed modifications and the settlement amounts are as follows:

Docket No. WEST 92-343-M

Citation No.	30 C.F.R.	Initial Proposed Penalty	Agreed Settlement
3908002	56.12017	\$178	\$110
3906071	56.14107(a)	119	Vacated, insufficient evidence
3606072	56.14107(a)	119	Vacated, insufficient evidence
3906073	56.14107(a)	119	20 Not S&S

Docket No. WEST 92-705-M

3630731	56.12017	15,000	10,000
3630732	56.12006	14,000	9,850
3630733	50.12	20	20
		TOTAL	\$20,000

I have considered the representations and documentation submitted and I conclude that the proffered settlement is reasonable and consistent with the criteria in 110(i) of the Act.

ORDER

The motion for approval of settlement is GRANTED. It is ORDERED that the "significant and substantial" finding in Citation No. 3906073 be deleted, that Citation Nos. 3906071 and

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3906072 be VACATED and that RESPONDENT PAY to the Secretary of Labor a penalty of \$20,000 within 40 days of this order. Upon receipt of payment these cases are DISMISSED.

August F. Cetti  
Administrative Law Judge

Distribution:

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