

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**  
601 NEW JERSEY AVENUE N. W., SUITE 9500  
WASHINGTON, D.C. 20001

July 28, 2011

AMERICAN COAL COMPANY, Contestant	:	CONTEST PROCEEDINGS
	:	
v.	:	Docket No. LAKE 2008-172-R
	:	Order No. 6673874; 01/24/2008
	:	
SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION, (MSHA), Respondent	:	Docket No. LAKE 2008-173-R
	:	Order No. 6673876; 01/24/2008
	:	
	:	Galatia Mine 11-02752
	:	
	:	
	:	CIVIL PENALTY PROCEEDINGS
SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION, (MSHA), Petitioner	:	Docket No. LAKE 2009-6
	:	A.C. No. 11-02752-162890-01
	:	
v.	:	Docket No. LAKE 2009-54
	:	A.C. No. 11-02752-165816-01
	:	
	:	Docket No. LAKE 2009-55
AMERICAN COAL COMPANY, Respondent	:	A.C. No. 11-02752-165816-02
	:	
	:	Docket No. LAKE 2009-56
	:	A.C. No. 11-02752-165816-03
	:	
	:	Mine: Galatia Mine

Appearances: Karen Wilczynski, Esq., Office of the Solicitor, U.S. Department of Labor, Denver, Colorado on behalf of the Petitioner;  
Jason W. Hardin, Esq., and Mark Kittrell, Esq., Fabian & Clendenin, Salt Lake City, Utah on behalf of the Respondent

**DECISION**

Before: Judge Melick

These cases are before me upon petitions for assessment of civil penalty under section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). During hearings on April 12, 2011 and April 13, 2011 in Evansville, Indiana, the parties reached a settlement agreement as to all pending charging documents. The agreement was supplemented post-hearing. The Secretary's rationale set forth in the supplemental motion is incorporated herein by reference. The Respondent has agreed to pay a reduced overall penalty of \$163,516.00. In explaining the reduced penalties the

Secretary has indicated that, in essence, upon further evaluation, she finds that there is insufficient evidence to sustain her original charges. The Secretary has also vacated Citation Number 6617943. I have considered the representations and documentation submitted in these cases, and I conclude that the proffered settlement is acceptable under the criteria set forth in section 110(i) of the Act.

ORDER

**WHEREFORE**, the motion for approval of settlement is **GRANTED**, and it is **ORDERED** that Respondent pay a penalty of \$163,516.00, within 40 days of this order.<sup>1</sup> Contest Proceedings Docket Nos. LAKE 2008-172R and LAKE 2008-172R are now moot and are therefore dismissed.

Gary Melick  
Administrative Law Judge  
202-434-9977

Distribution:

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/to

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<sup>1</sup>Payment should be sent to: MINE SAFETY AND HEALTH ADMINISTRATION, U.S. DEPARTMENT OF LABOR, PAYMENT OFFICE, P. O. BOX 790390, ST. LOUIS, MO 63179-0390