

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
601 New Jersey Ave., N.W., Suite 9500
Washington, DC 20001-2021

January 26, 2006

SECRETARY OF LABOR, MSHA, and	:	DISCRIMINATION PROCEEDINGS
DAVID BAGLEY, GEORGE GAMBLE	:	
and WILLIAM RICHARDSON,	:	Docket No. SE 2005-239-D
Complainants,	:	MSHA Case No. BIRM-CD-2005-01
v.	:	
	:	Docket No. SE 2005-240-D
	:	MSHA Case No. BIRM-CD-2005-04
	:	
	:	Docket No. SE 2005-241-D
	:	MSHA Case No. BIRM-CD-2005-02
	:	
JIM WALTER RESOURCES, INC.,	:	MINE ID: 01-01401
Respondent.	:	MINE NO. 7

DECISION

Appearances: U.S. Department of Labor, Office of the Solicitor, Heather A. Joys, Atlanta, Georgia, for the Complainants
Maynard, Cooper & Gale, P.C., Warren B. Lightfoot, Jr. and Janell Ahnert, Birmingham, Alabama, for the Respondent

Before: Judge Weisberger

These cases are before me based on Discrimination Complaints filed by the Secretary of Labor on behalf of miners, David Bagley, George Gamble and William Richardson. Each complaint alleges that Jim Walter Resources Inc. (“Jim Walter”) discriminated against the miner in violation of Section 105 of the Federal Mine Safety & Health Act of 1977.

Pursuant to notice, a hearing was scheduled for December 13, 14, and 15, 2005, in Birmingham, Alabama. At the start of the second day of the hearing, the parties indicated that they had reached a settlement resolving all the issues in these cases.

The following is the bench decision that we rendered, with the exception of corrections of matters not of substance:

THE COURT: ... A short while ago the parties advised me that they have successfully reached a settlement agreement resolving the issues raised by this litigation. I wanted to indicate on the record that I am extremely appreciative to Counsel in this regard. I can tell by the motions that were filed pretrial, by

yesterday's proceedings that the parties put a lot of thought and preparation into this case. I appreciate their efforts. But most of all I appreciate the conscientiousness and professionalism shown throughout the trial and, more importantly, their willingness to discuss settlement and finally having been able to reach a settlement in this matter. In chambers the parties advised me of the terms of the agreement. I find that the agreement is consistent with the terms of the Federal Mine Safety and Health Act. I approve it. I am thankful for the parties resolving this matter without lengthy litigation. I feel that the terms of the agreement are in the best interest of the parties and most importantly consistent with the terms of the act and constitute their resolution of all the issues herein. Is there a motion by one of the parties at this time?

MS. JOYS: Yes, Your Honor. Pursuant to the terms of the settlement agreement and the signing of a settlement agreement, the Secretary wants to withdraw her complaint in this matter.

THE COURT: I assume there isn't any objection?

MR. LIGHTFOOT: No objection.

THE COURT: [The] request to withdraw the pleadings is granted based upon the settlement in this matter.

ORDER

It is **Ordered** that the case is dismissed, and it is **Ordered** that the parties agreed by all the terms of the agreement.

Avram Weisberger
Administrative Law Judge

Distribution: (Certified Mail)

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