

CCASE:
MSHA V. DUVAL
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FMSHRC-WDC
MAY 22, 1986

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

v. CENT 80-312-M

DUVAL CORPORATION

BEFORE: Backley, Doyle, Lastowka and Nelson, Commissioners

ORDER

BY THE COMMISSION:

In this matter pending on review, the parties filed with the Commission on May 7, 1986, a joint motion for approval of settlement and dismissal of the petition for discretionary review.

In the decision below, Commission Administrative Law Judge John J. Morris concluded that respondent Duval Corporation ("Duval") had violated 30 C.F.R. § 57.19-120 (1984), and assessed a civil penalty of \$395.00 for the violation. 6 FMSHRC 1359 (May 1984). The Commission subsequently granted Duval's petition for discretionary review. The parties' dismissal motion states that Duval sold the mining operation in question in the latter part of 1985 and "no longer wishes to contest the decision of the administrative law judge." According to the motion, Duval is "now willing to pay the \$395.00 penalty assessed by the judge."

We have reviewed the settlement motion in light of the record and the statutory penalty criteria (30 U.S.C. § 820(i)), and conclude that the settlement agreed to by the parties is appropriate. Accordingly, we approve the settlement. 30 U.S.C. § 820(k). The joint motion is granted, the Commission's direction for review is vacated, and this proceeding is dismissed. 1/

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

1/ Chairman Ford has not participated in the consideration or disposition of this matter.