

CCASE:

SOL (MSHA) V. HOMESTAKE MINING

DDATE:

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TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No. CENT 83-31-M
A.C. No. 39-00055-05508

v.

Homestake Mine

HOMESTAKE MINING COMPANY,
RESPONDENT

DECISION

Appearances: Eliehue C. Brunson, Esq., Office of the Solicitor,
U.S. Department of Labor, Kansas City, Missouri,
for Petitioner; Robert A. Amundson, Esq., Amundson
& Fuller, Lead, South Dakota,
for Respondent.

Before: Judge Morris

The Secretary of Labor, on behalf of the Mine Safety and
Health Administration, charges respondent with violating two
safety regulations promulgated under the Federal Mine Safety and
Health Act, 30 U.S.C. 801 et seq.

After notice to the parties, a hearing on the merits
commenced on October 30, 1984 in Rapid City, South Dakota.

Prior to the conclusion of the hearing the parties reached
an amicable settlement.

The citations, the standards allegedly violated, the initial
assessments, and the proposed dispositions are as follows:

Citation No.	30 C.F.R. Section Violated	Assessed Penalty	Disposition
2097208	57.12-30	\$20.00	\$20.00
2097774	57.4-9	20.00	20.00

The proposed disposition as to Citation 2097208 is in order
and it should be approved.

Concerning Citation 2097774, the parties advised the judge
that the evidence established a violation of 30 C.F.R. 57.4-9,

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instead of 30 C.F.R. 57.41. The citation was amended.
Fed.R.Civ.P. 15(a). Respondent thereupon moved to withdraw its
notice of contest and to pay the proposed penalty. Pursuant to
Commission Rule 11, 29 C.F.R. 2700.11, the motion was granted.

Accordingly, I enter the following:

ORDER

1. The settlement agreement is approved.
2. The following citations and proposed penalties are

AFFIRMED:

Citation No.	Penalty
2097208	\$20.00
2097774	20.00

John J. Morris
Administrative Law Judge