

CCASE:

PLATEAU MINING V. SOL (MSHA)

SOL (MSHA) V. PLATEAU MINING

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

PLATEAU MINING COMPANY,  
CONTESTANT

v.

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

CONTEST PROCEEDING

Docket No. WEST 84-106-R  
Citation No. 2213805; 1/5/84

Star Point No. 2 Mine

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

v.

CIVIL PENALTY PROCEEDING

Docket No. WEST 84-122  
A.C. No. 42-00171-03523

Star Point No. 2 Mine

PLATEAU MINING COMPANY,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Appearances: John A. Snow, Esq., VanCott, Bagley, Cornwall &  
McCarthy, Salt Lake City, Utah,  
for Contestant/Respondent;  
James H. Barkley, Esq., and Margaret Miller, Esq.,  
Office of the Solicitor, U.S. Department of Labor,  
Denver, Colorado,  
for Respondent/Petitioner.

Before: Judge Lasher

Prior to commencement of formal hearing on March 4, 1985,  
the parties submitted a proposed settlement of this  
contest/penalty proceeding. The parties agreed to a penalty  
assessment of \$9,000.00 for the violation of 30 C.F.R.  
75.1722(c) cited in Citation No. 2213805 (Footnote.1) which involved a  
fatality.

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Based on stipulations entered on the record (Footnote.2), it was found that the Respondent, a large coal mine operator with a moderate to average history of previous violations during the 2-year preceding January 5, 1984 (the issue date of the subject citation), proceeded in good faith to achieve prompt abatement of the violation upon notification thereof. With respect to gravity, it was determined on the record that the violation resulted in the fatal injury to the operator of a shuttle car as described in the citation. A low degree of negligence on the part of the Respondent was also stipulated and determined on the record.

Upon due consideration of the premises, the settlement was approved from the bench and is here affirmed.

Respondent, if it has not previously done so, shall pay the Secretary of Labor the sum of \$9,000.00 on or before 30 days from the date hereof. (Footnote.3)

Michael A. Lasher, Jr.  
Administrative Law Judge

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Footnotes start here:-

~Footnote\_one

1 The citation was modified by Petitioner and approved on the record to reflect its issuance under section 104(a) of the Act rather than 104(d)(1).

~Footnote\_two

2 The parties emphasized that their stipulations were submitted solely for purposes of resolving this proceeding under the Federal Mine Safety and Health Act of 1977 and were to be confined thereto.

~Footnote\_three

3 Consistent with the penalty settlement, the contest in Docket No. WEST 84-106-R is denied.