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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING
Docket No. WEST 89-86-M
A.C. No. 05-03998-05513 NYO

v.

Summitville Mine

INDUSTRIAL CONSTRUCTORS
CORPORATION

DECISION APPROVING SETTLEMENT

Before: Judge Morris

This is a civil penalty proceeding initiated by the petitioner against respondent in accordance with the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. The civil penalties sought here are for the violation of mandatory standards promulgated pursuant to the Act.

Prior to a hearing the petitioner filed a motion seeking to settle the case. Correspondence filed with the settlement indicated respondent has been apprised of the proposal. The citations, the original assessments and the amended civil penalties, are as follows:

| Citation No. | Assessment | Disposition |
|--------------|------------|-------------|
| 2876658 | \$98.00 | \$20.00 |
| 2876656 | 20.00 | 20.00 |

In support of their motion to approve the settlement the parties have submitted information relating to the statutory criteria for assessing penalties as contained in 30 U.S.C. 820(i).

I have reviewed the proposed settlement and I find it is reasonable and in the public interest. It should be approved.

Accordingly, I enter the following:

ORDER

1. The settlement agreement is approved.
2. The foregoing citations and civil penalties, as amended, are affirmed.
3. Respondent has paid the \$20 assessment for Citation No. 2876656. Accordingly, respondent is ordered to pay the petitioner the sum of \$20 for the violation of Citation 2876658 within 40 days of the date of this decision.

John J. Morris
Administrative Law Judge