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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. SE 86-111
A.C. No. 01-01247-03713

v.

No. 4 Mine

JIM WALTER RESOURCES, INC.,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The parties have filed a joint motion to approve a settlement of the one violation involved in this case. The proposed settlement was the subject of conference calls on October 1 and October 7, 1986 between the Solicitor, operator's attorney, and the Judge. At the conference calls the violation was discussed at length. The originally assessed penalty for this violation was \$725. The proposed settlement is for \$200.

The joint motion discusses the violation in light of the six criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. Citation No. 2192194 was issued for violation of 30 C.F.R. 70.100 because an excessive concentration of coal dust was detected in the operator's mine. The parties represent that the violation was much less serious than was originally thought because all exposed miners were adequately protected by respirators. A reduction in the penalty below \$200 is not justified, however, because the operator failed to abate the violation in as timely a manner as could have been expected.

The representations and recommendations of the parties are accepted.

Accordingly, the motion to approve settlement is GRANTED and the operator is ORDERED TO PAY \$200 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge