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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 87-95 A.C. No. 01-01247-03768 No. 4 Mine
v.	

JIM WALTER RESOURCES, INC.,

RESPONDENT

JIM WALTER RESOURCES, INC., CONTESTANT	CONTEST PROCEEDING Docket No. SE 87-56-R Order No. 2810626; 2/4/87 No. 4 Mine
v.	
SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), RESPONDENT	

DECISION APPROVING SETTLEMENT

ORDER TO PAY

ORDER OF DISMISSAL

Before: Judge Merlin

The parties have submitted a joint motion to approve settlements of the three violations involved in this case. The total of the originally assessed penalties was \$2,600 and the total of the proposed settlements is \$1,900.

The motion discusses the violations in light of the six statutory criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. Order No. 2811815 was issued for a violation of 30 C.F.R. 75.1403Å7K because an employee was riding in the service cage while material was being transported therein. This penalty was assessed at \$500 and the proposed settlement is for \$350. The parties represent that a reduction from the original amount is warranted on the basis that gravity is less than originally assessed because the equipment being transported consisted of 2 ram bar assemblies. These assemblies are approximately 4 or 5 feet long and are approximately 10 inches in diameter. The assemblies are also very heavy and

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therefore would not easily slide across the floor of the cage. Thus, the likelihood of a resulting injury is not as great as originally thought. I accept the foregoing representations and approve the recommended settlement.

Order No. 2810449 was issued for a violation of 30 C.F.R. 75.200 because the approved roof control plan was not being complied with. The roof control plan requires that when fully grouted resin rods are used, that they shall be installed within 8 hours after the coal is mined or loaded, or the area shall be supported with temporary supports. In this instance, the cutting of the faces was concluded on the day shift at approximately 3:00 p.m. The roof bolting machine then became disabled on the evening shift and prevented the commencement of bolting operations. The order was issued at approximately 1:00 a.m. on the night shift. Once the roof bolting machine was repaired, the operator bolted the No. 2 entry with resin pins and temporarily supported the No. 2 entry. This penalty was originally assessed at \$1,100 and the proposed settlement is for \$550. The parties represent that a reduction from the original amount is warranted because gravity is less than originally assessed in that the roof remained intact, even after ten hours of cutting, which permitted the proper installation of the resin bolts. I accept the foregoing representations and approve the recommended settlement.

Order No. 2810626 was issued for a violation of 30 C.F.R. 75.303 because the operator failed to comply with pre-shift and on-shift inspection requirements. The operator has agreed to pay the originally assessed amount of \$1,000. I approve this settlement and hereby DISMISS the corresponding Notice of Contest to this order, Docket No. SE 87Å56ÅR.

Accordingly, the joint motion to approve settlement is APPROVED and the operator is ORDERED TO PAY \$1,900 within 30 days from the date of this decision.

Paul Merlin
Chief Administrative Law Judge