

CCASE:  
SOL (MSHA) v. CONSOLIDATION COAL  
DDATE:  
19910814  
TTEXT:

Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges  
2 Skyline, 10th Floor  
5203 Leesburg Pike  
Falls Church, Virginia 22041

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

CIVIL PENALTY PROCEEDING

Docket No. WEVA 91-122  
A.C. No. 46-01453-03940

v.

Humphrey No. 7 Mine

CONSOLIDATION COAL COMPANY,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Appearances: Wanda M. Johnson, Esq., U.S. Department of Labor,  
Office of the Solicitor, Arlington, Virginia,  
for Petitioner;  
Walter J. Scheller, Esq., Consolidation Coal  
Company, Pittsburgh, Pennsylvania for Respondent.

Before: Judge Weisberger

This case is before me upon a petition for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). Pursuant to Notice, the case was scheduled for hearing on May 14, 1991. At the hearing, after the MSHA inspector testified, the parties conferred and indicated they had reached a settlement. The hearing was adjourned and the parties were allowed one week subsequent to receipt of the transcript of the hearing to file a Motion to Approve Settlement.

On August 5, 1991, Petitioner filed a motion to approve a settlement agreement. A reduction in penalty from \$1,600 to \$200 is proposed. I have considered the representations and documentation submitted in this case, along with the testimony and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that Respondent pay a penalty of \$200 within 30 days of this order. It is further ORDERED that Order No. 3113874 be modified to a Section 104(a) citation alleging a violation that is not significant and substantial.

Avram Weisberger  
Administrative Law Judge