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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. PENN 85-56
A.C. No. 36-00837-03536

v.

Lancashire No. 24-B Mine

BARNES & TUCKER COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Kennedy

This matter is before me on the parties' motion to approve settlement of the captioned matter in the amount of \$150.

Based on an independent evaluation and res nova review of the circumstances, I find the settlement proposed is in accord with the purposes and policy of the Act. MSHA admits that issuance of the failure to abate closure order was in error. Further, an exploration of the merits during the course of a teleconference with counsel on July 1, established that the evidence to support the violation was marginal.

Accordingly, it is ORDERED that the motion be, and hereby is, GRANTED. It is FURTHER ORDERED that the operator pay the amount of the penalty agreed upon, \$150, on or before Friday, July 26, 1985, and that subject to payment the captioned matter be DISMISSED.

Joseph B. Kennedy
Administrative Law Judge