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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. WEVA 79-11
A/O No. 46-01968-03024

v.

Blacksville No. 2 Mine

CONSOLIDATION COAL COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENTS

ORDER TO PAY

The Solicitor advises that he and the attorney for the operator have discussed the alleged violations in the above-captioned proceedings. Pursuant to such discussion, the Solicitor has filed a motion to approve settlements agreed to by the parties.

Citation No. 260067 was issued for failure to provide a fire extinguisher at a greasing station. This violation of 30 CFR 75.1100 was originally assessed at \$180. The recommended settlement is \$130. The Solicitor advises the reduction is warranted because the cited standard is not explicit in its requirement for locating fire extinguishers at greasing stations, and because the Respondent had no actual knowledge of such a requirement. The Solicitor further advises the Respondent believed adequate protection for the area was provided by the presence of two nearby fire extinguishers at a dumping station and at an oil breaker. I accept the Solicitor's representations. Accordingly, this recommended settlement is hereby approved.

Citation No. 261295 was issued for failure to support a power wire on well insulated J-hooks. The recommended settlement for this violation of 30 CFR 75.516-1 is for the assessed amount of \$160. The Solicitor simply advises the penalty for this citation is unaffected by the settlement motion. This does not provide a sufficient basis for approval of the recommended settlement, since proceedings before the Commission are de novo. Such a statement will not be acceptable in the future. Rather than disapprove this settlement however, I have reviewed the citation, the assessment sheet, and the attached inspector's statement. Based upon my own review of the violation, I conclude the recommended settlement is consistent with and will effectuate the purposes of the Act. The recommended settlement is therefore, approved.

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ORDER

The operator is ORDERED to pay \$290 within 30 days from the date of this decision.

Paul Merlin
Assistant Chief Administrative Law Judge