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CONSOLIDATION COAL V. SOL (MSHA)
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

CONSOLIDATION COAL COMPANY,
CONTESTANT

v.

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

Contest of Order

Docket No. PENN 80-16-R
Order No. 0618634
May 25, 1979

Renton Mine

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

v.

CONSOLIDATION COAL COMPANY,
RESPONDENT

Civil Penalty Proceeding

Docket No. PENN 80-18
A.O. No. 36-00807-03029V

Renton Mine

DECISION AND ORDER

The captioned consolidated contest/penalty proceeding came on for a prehearing/settlement conference on May 8, 1980, in the United States Courthouse in the District of Columbia.

On the basis of concessions made by the mine inspector in the course of prehearing disclosure, counsel for the operator, at the invitation of the Presiding Judge, moved to vacate the subject unwarrantable failure closure order and to dismiss the proposal for civil penalty.

After hearing argument from counsel for both parties, the motion was granted. The Presiding Judge found a mine foreman's statement of intent at some future time to use a mining method violative of the operator's approved roof control plan is legally insufficient to support a charge of violation of the plan under 30 C.F.R. 75.200.

Accordingly, it is ORDERED that the bench decision be, and hereby is, ADOPTED and CONFIRMED as the final decision in this matter. It is FURTHER ORDERED that the Order No. 618634 be, and hereby is VACATED, and the proposal for penalty DISMISSED.

Joseph B. Kennedy
Administrative Law Judge