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SOL V. FANCY MINIG
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
PETITIONER

v.

FANCY MINING COMPANY, INC.,
RESPONDENT

Civil Penalty Proceeding

Docket No. WEVA 80-730
A.C. No. 46-02856-03004 R

J & J No. 2 Mine

DECISION AND ORDER APPROVING SETTLEMENT

This proceeding was commenced by the Secretary of Labor, Mine Safety and Health Administration (hereinafter "MSHA") on November 10, 1980, by the filing of a petition for assessment of civil penalty. On April 20, 1981, the parties filed a joint motion for an order approving settlement of this case, which I subsequently denied in an order dated July 6, 1981. A hearing was held on the matter on September 15, 1981, in Morgantown, West Virginia. Barry Lane Ryan testified on behalf of MSHA and John A. Laurita testified on behalf of both MSHA and Fancy Mining. At the close of the hearing, the parties indicated their desire to have their motion to approve settlement reconsidered. I stated at that time that I would rule upon the renewed motion after posthearing briefs were submitted and the record was closed.

Having duly considered the testimony and other evidence, I conclude that the recommended settlement is consistent with the purposes and policy of the Act. The recommended settlement, reducing the penalty from \$10,000.00 to \$2,000.00, is therefore, approved.

Accordingly, it is ORDERED that the motion to dismiss and approve settlement is GRANTED. It is FURTHER ORDERED that the operator pay \$2,000 and that subject to such payment the petition be DISMISSED.

James A. Laurenson
Judge