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SOL (MSHA) V. ROBERT MILLER  
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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

v.

ROBERT G. MILLER,  
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. WEVA 83-277  
A.C. No. 46-02166-03517-A

Beckley No. 1 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Fauver

The parties have moved for approval of settlement by payment of the civil penalty (\$750) proposed in the petition. Grounds for the motion may be summarized as follows:

1. This is a civil penalty proceeding brought under section 110(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(c), against Respondent as an individual agent of Ranger Fuel Corporation, the operator of the Beckley No. 1 coal mine located in Bolt, Raleigh County, West Virginia. On the date in question, February 10, 1982, Respondent was acting as general labor foreman at said mine.

2. On February 10, 1982, MSHA issued Citation No. 1061681 under section 104(a) of the Act to Ranger Fuel Corporation, citing a violation of a mandatory safety standard, 30 CFR 48.7(c), as follows:

It was revealed during a fatal track haulage accident that Bob Miller, foreman, assigned William Hall, Jr., a general inside laborer, to assist Lee Hackworth, mine locomotive operator, in moving a piece of mining equipment (longwall roof support jack) from the end of the (013) longwall section mine track to the mouth of the section, a distance of about 2,000 feet. The roof support jack was being pulled by a mine locomotive on which Hall was assigned to ride. Hall was not given instructions in the health and safety aspects and safe work procedures related to the assigned task prior to performing such task. The investigation revealed that Hall had not performed this task or demonstrated safe work procedures for such task within the last 12 months. An examination of the training records revealed Hall had not been trained in such task.

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3. On June 28, 1983, the corporate mine operator, Ranger Fuel Corporation, paid an uncontested civil penalty assessment of \$2,000.00 for the foregoing violation under MSHA Assessment Office Case No. 46-02166-03514.

4. On August 30, 1982, pursuant to 30 CFR Part 100, a proposed civil penalty assessment of \$750.00 was issued by the MSHA Assessment Office to Respondent under A.O. Case No. 46-02166-03517-A for knowingly authorizing, ordering, or carrying out the foregoing violation as an agent of the corporate mine operator under section 110(c) of the Act.

5. On September 19, 1983, Respondent filed a notice of contest of said proposed assessment, resulting in this proceeding. However, Respondent now no longer wishes to contest the subject case and has tendered a check in the amount of \$750.00 in full payment and settlement of the proposed civil penalty assessment and as a plea of no contest entered herein for the purposes of this proceeding under this Act only, and not as an admission in any other proceeding.

I find that the motion for settlement is consistent with the statutory criteria for civil penalties. Accordingly, the motion is GRANTED.

ORDER

WHEREFORE IT IS ORDERED that Respondent shall pay the above approved civil penalty of \$750.00 and upon such payment this proceeding is DISMISSED.

William Fauver  
Administrative Law Judge