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SOL (MSHA) V. METTIKI COAL  
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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.

METTIKI COAL CORPORATION,  
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. YORK 84-8  
A.C. No. 18-00655-03516

C-Mine

DECISION

Appearances: Sheila K. Cronan, Esq., Office of the Solicitor,  
U.S. Department of Labor, Arlington,  
Virginia, for Petitioner;  
Thomas C. Means, Esq., Crowell and Moring,  
Washington, D.C., for Respondent.

Before: Judge Merlin

This case is a petition for the assessment of a civil penalty filed on March 5, 1984, by the Government against Mettiki Coal Corporation. The operator filed an answer denying the alleged violation and requesting a hearing. By amended notice of hearing issued May 3, 1984, this case was set for hearing on May 17, 1984. The hearing was held as scheduled.

Section 75.329 provides as follows:

On or before December 30, 1970, all areas from which pillars have been wholly or partially extracted and abandoned areas, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means, or be sealed, as determined by the Secretary or his authorized representative. When ventilation of such areas is required, such ventilation shall be maintained so as continuously to dilute, render harmless, and carry away methane and other explosive gases within such areas and to protect the active workings of the mine from the hazards of such methane and other explosive gases. Air coursed through underground areas from which pillars have been wholly or partially extracted

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which enters another split of air shall not contain more than 2.0 volume per centum of methane, when tested at the point it enters such other split. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine.

Citation No. 2117299 describes the condition or practice as follows:

In the exploratory butt entries mined to the left of the right sub mains three rooms was mined [sic] to the left off the exploratory butt for a distance of 7 connecting crosscuts which is a distance of 560 feet and the coal in the blocks between the Nos. 1 and 2 rooms were partially extracted without establishing a bleeder system or other equivalent means to ventilate the pillared area.

The coal in the blocks between the Nos. 2 and 3 rooms were not extracted [sic] and a row of permanent stoppings had been erected between these rooms up to the No. 5 connecting crosscut for the purpose of forcing the air over the pillared area up to the No. 7 crosscut and returning back, but due to a massive cave-in in the Nos. 1 and 2 rooms, the concussion of the falls blew the permanent stoppings out in the Nos. 3, 4, and 5 crosscuts, and at the No. 7 crosscut which is the last open between the Nos. 2 and 3 rooms there was .4% methane gas detected when examined with a permissible M-402 hand held methane detector, also a bottle sample was collected for a laboratory analysis, and air measurement was made in this area with a chemical smoke cloud and only 2,000 cubic feet of air per minute could be obtained.

There is no dispute between the parties with respect to the facts. It was explained at the hearing that the air coursing through the One Butt right sub mains was not directed through the bleeder entries so as to carry away methane from gobbed out areas. This misdirection of air happened because metal stoppings in the affected area had been blown out by a roof fall. The operator abated by installing permanent concrete stoppings.

The violation was serious because without a bleeder system, methane would not be carried away but would instead travel to the working areas. The operator was negligent,

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although there apparently was some confusion on the operator's part as to whether a bleeder system plan had been approved for this area.

The operator is large in size. Its prior history is average and payment of a penalty will not affect its ability to continue in business.

The operator agreed to pay the original assessed penalty of \$1000 which the Solicitor agreed to accept. After being acquainted with all the facts, I approved the recommended settlement from the bench.

The operator is Ordered to pay \$1000 within 30 days from the date of this decision.

Paul Merlin  
Chief Administrative Law Judge