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SOL (MSHA) V. COBRA RESOURCES
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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.

COBRA RESOURCES, INC.,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. KENT 83-54
A.C. No. 15-12628-03501

Cobra Tipple

DECISION DISAPPROVING SETTLEMENT
ORDER OF ASSIGNMENT

On March 27, 1984, the Solicitor filed his response to the Order to Submit Information issued in the above-captioned case. At issue is one violation, the proposed settlement of which is for \$20, the originally assessed amount.

Citation No. 2054981 was issued for violation of 30 C.F.R. 77.1605(b) because adequate brakes were not provided on a 125 Michigan Front End Loader being used for moving cars to be loaded on track. The Solicitor represents in his motion that the brakes on the front end loader were worn but not completely out. It was equipped with an operative emergency brake and in addition it could use its front blade in the event that it needed to stop suddenly. The Solicitor also states that this front end loader was being used to move railroad cars on level ground and was not being used to load the coal into the hopper. For the above enumerated reasons, the Solicitor asserts that gravity was low and negligence was moderate. I cannot approve a \$20 settlement in this case. \$20 denotes a lack of gravity. Thus, although the degree of seriousness of this violation may be somewhat mitigated by the facts described by the Solicitor, it did constitute a definite safety hazard. One can only wonder at the process which produced a \$20 penalty in this instance.

This case is hereby assigned to Assistant Chief
Administrative Law Judge Gary Melick.

All future communications regarding this case should be
addressed to Judge Melick at the following address:

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Federal Mine Safety and Health
Review Commission
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Paul Merlin
Chief Administrative Law Judge