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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.

BUCKEYE COAL MINING COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. LAKE 84-2
A.C. No. 33-01357-03502

West Point Strip Mine

DISAPPROVAL OF SETTLEMENT
ORDER OF ASSIGNMENT

The Solicitor has filed a motion for approval of settlement for the two violations in the above captioned action. The original assessments were for \$20 apiece and the Solicitor seeks approval in the amount of \$15 each.

One violation was for the absence of a fire extinguisher on a bulldozer and the other was for the absence of a fire extinguisher on the drag line. The Solicitor advises that "The probability of occurrences of the event against which the violated standard is directed is improbable. The gravity of protected injury was slight. The number of affected persons was one. * * * This violation only concerns the failure to install portable fire extinguishers on a bulldozer and a dragline pursuant to 30 C.F.R. | 77.1109(c)(1) and | 77.1109-2. Therefore, there was little likelihood of danger of any of Respondent's miners."

The Solicitor does not explain why the failure to install fire extinguishers means that there was little likelihood of danger. The absence of fire extinguishers would appear to pose some risk of injury and if this was not so, then the Solicitor should specifically tell why. Even more importantly, the original assessed penalties of \$20 apiece were very low. In absence of some compelling circumstance, further reduction would make a mockery of the Act.

In light of the foregoing, the proposed settlements are disapproved.

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This case is hereby assigned to Assistant Chief Administrative Law Judge Gary Melick. All future communications regarding this case should be addressed to him at the following address:

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Paul Merlin
Chief Administrative Law Judge