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SOL (MSHA) V. TRENT 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

CIVIL PENALTY PROCEEDING

Docket No. PENN 84-192
A.C. No. 36-01471-03513

v.
TRENT COAL, INC.,
RESPONDENT

Hritz Mine

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a motion to approve a settlement for the one violation involved. The originally assessed amount was \$6,000 and the proposed settlement is for \$6,000.

The citation was issued for a violation of 30 C.F.R. 75.200 because the operator had not complied with the approved roof control plan which provides that before splitting is started on any pillar, all safely accessible roof and its entire perimeter shall be examined, and that if any roof defect is found at any place within the perimeter, full overhead support shall be installed as mining progresses. In this case a crack was detected at the pillar which was to be extracted. The crack extended for approximately 160 feet. The operator did not consider the crack to be a defect since the area was roof bolted, although not fully bolted. A roof fall occurred in the cited area resulting in two fatalities.

Based upon the foregoing information in the Solicitor's motion, I find the violation was of the utmost gravity and that the operator was highly negligent.

The Solicitor further advises that the operator had 16 assessed violations during the 24 month period preceding issuance of the subject citation. The period included 100 inspection days. Thus, the operator had a violation per inspection day ratio of 0.16 which according to the Solicitor represents a relatively favorable history of previous violations.

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The Solicitor also states the operator and the mine had an annual production tonnage of 45,144, which indicates that the mine is relatively small and that the controlling entity is extremely small. The operator demonstrated good faith by achieving rapid compliance after notification of the violation. The cited area was abandoned and mining operations were begun one row of pillars inby the cited area. Employees were reinstructed concerning the approved roof control plan. Finally, the operator has paid the proposed penalty and continued its operations.

After a careful review of this matter I approve the settlement as appropriate under the six statutory criteria set forth in section 110(i) of the Act. Gravity and negligence call for a most substantial penalty. But the operator's small size and good history must be taken into account. The proposed settlement which is a high penalty for this operator represents a proper weighing of the statutory elements.

Accordingly the proposed settlement is Approved and the operator having paid this case is Dismissed.

Paul Merlin
Chief Administrative Law Judge