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SOL (MSHA) v. PEABODY 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. LAKE 85-18
A.C. No. 33-01069-03578

v.

Sunnyhill No. 9 North
Mine

PEABODY COAL COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This is a civil penalty proceeding initiated by the petitioner against the respondent pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), proposing civil penalty assessments for three alleged violations of certain mandatory safety standards found in Part 75, Title 30, Code of Federal Regulations.

Respondent filed a timely answer and notice of contest and the case was scheduled for hearing in Columbus, Ohio. However, by motion filed April 29, 1985, the parties seek approval of a proposed settlement pursuant to Commission Rule 30, 29 C.F.R. 2700.30. The violations, initial assessments, and the proposed settlement amounts are as follows:

104(d)(1)

Citation No.	Date	30 CFR	Assessment	Settlement
2331457	8/2/84	75.1403-5(g)	\$ 750	\$ 400

104(d)(1)

Order No.	Date	30 CFR	Assessment	Settlement
2331458	8/2/84	75.200	\$1,000	\$ 550
2331459	8/2/84	75.400	1,000	550

Discussion

In support of the proposed settlement disposition of this matter, counsel for the parties state that they have discussed the alleged violation and the six statutory criteria stated in section 110(i) of the Act, and that the circumstances presented warrant the reduction in the original civil penalty assessments for the violations in question. Further, counsel for the petitioner has submitted a detailed discussion and disclosure as to the facts and circumstances surrounding the issuance of the citation and orders, as well as a full explanation and justification for the proposed reductions.

Conclusion

After careful review and consideration of the pleadings, arguments, and submissions in support of the joint motion to approve the proposed settlement of this case, I conclude and find that the proposed settlement disposition is reasonable and in the public interest. Accordingly, pursuant to 29 C.F.R. 2700.30, the motion is GRANTED and the settlement is APPROVED.

ORDER

Respondent IS ORDERED to pay civil penalties in the settlement amounts shown above in satisfaction of the violations in question within thirty (30) days of the date of this decision and order, and upon receipt of payment by the petitioner, this proceeding is dismissed.

George A. Koutras
Administrative Law Judge