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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. WEVA 84-300
A.C. No. 46-06197-03501 A41

v.

Pine Creek No. 12 Prep.
Plant

RUTTMAN CORPORATION,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a Motion for Decision and Order Approving Settlement in the above-referenced case. At issue are two violations, originally assessed at \$42 each. Settlement is proposed in the original penalty amounts.

Citation No. 2274227 was issued for violation of 30 C.F.R. 77.208A, in that there were stumbling hazards present on the top of the silo. The Solicitor represents that negligence and gravity were moderate. Steel ropes, wooden cap blocks, power cables and metal created both falling and tripping hazards in the area. The Solicitor maintains that full payment of the \$42 penalty is appropriate.

Citation No. 2274228 was issued for violation of 30 C.F.R. 77.200, when two openings in the top of the silo floor measuring 6 x 9 were found. The Solicitor asserts that this opening left unguarded posed a free fall hazard of approximately thirty feet. The Solicitor represents that negligence and gravity were moderate and that accordingly, full payment of the \$42 penalty is proper.

The Solicitor further represents that the operator is small with an excellent history of prior violations.

I accept the Solicitor's representations and find the proposed settlements in accord with the policies and purposes of the Act. The settlements are therefore APPROVED.

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ORDER

The operator is hereby ORDERED to pay \$84 within 30 days from the date of this decision.

Paul Merlin
Chief Administrative Law Judge