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SOL (MSHA) v. DORCHESTER 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. WEST 84-3  
A.C. No. 05-03455-03520

v.

Dorchester No. 1 Mine

DORCHESTER COAL COMPANY,  
RESPONDENT

DECISION

Appearances: James H. Barkley, Esq. and Margaret A. Miller, Esq.,  
Office of the Solicitor, U.S. Department of Labor,  
Denver, Colorado,  
for Petitioner;  
Phillip D. Barber, Esq., Welborn, Dufford, Brown &  
Tooley, Denver, Colorado,  
for Respondent.

Before: Judge Carlson

This case was fully heard upon the merits in Denver,  
Colorado. Before the matter was taken up for decision, the  
parties asked for time in which to work out a settlement.

The parties have now submitted a settlement agreement which,  
if approved, would resolve all pending issues.

Specifically, the parties agree that respondent violated the  
standard charged in the citation, but did so in reliance upon the  
erroneous verbal representations of an MSHA district official as  
to the requirements of the standard.

The Secretary therefore seeks to amend the proposed civil  
penalty from the \$79.00 originally sought to the sum of \$1.00.  
Conditioned upon the approval of the agreement, Dorchester moves  
for leave to withdraw its notice of contest.

Having heard all of the evidence in this case, and having  
considered the representations made in the settlement agreement,  
I am convinced that the terms of the agreement are wholly  
appropriate.

Accordingly, the settlement agreement is ORDERED approved in  
its entirety. Respondent, Dorchester Coal Company, is ORDERED to  
pay a civil penalty of \$1.00 within 40 days of the date of this  
decision.

John A. Carlson  
Administrative Law Judge