

CCASE:
SOL (MSHA) V. YOUGHIOGHENY & OHIO 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 86-11
A.O. No. 33-00968-03620

v.

Nelms No. 2 Mine

YOUGHIOGHENY & OHIO COAL CO.
RESPONDENT

DECISION APPROVING SETTLEMENT

Appearances: Patrick M. Zohn, Esq., Office of the Solicitor,
Cleveland, Ohio, for the Petitioner Robert Kota,
Esq., Youghioghenny and Ohio Coal Company, for the
Respondent

Before: Judge Maurer

This case is before me upon a petition for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). A hearing in this matter was convened in Wheeling, West Virginia on January 8, 1986. At that time, the parties advised me of a proposed settlement disposition of the dispute and jointly moved for approval of a settlement agreement and dismissal of the case. The violation in this case was originally assessed at \$240 and the parties propose to reduce the penalty to \$160. I have considered the representations and documentation submitted in this case, and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of a settlement is GRANTED and it is ORDERED that Respondent pay a penalty of \$160 within 30 days of this decision. Upon payment, these proceedings are DISMISSED.

Roy J. Maurer
Administrative Law Judge