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YOUGHIOGHENY & OHIO COAL V. SOL (MSHA)
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

YOUGHIOGHENY AND OHIO COAL
COMPANY,
CONTESTANT

v.

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
RESPONDENT

CONTEST PROCEEDING

Docket No. LAKE 86-4-R
Order No. 2495235; 9/10/85

Nelms No. 2 Mine

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

YOUGHIOGHENY AND OHIO COAL
COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. LAKE 86-26
A.C. No. 33-00968-03621

Nelms No. 2 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Kennedy

When the parties' motions to withdraw and approve settlement were before me in February, I denied them unless the amount of the settlement proposed was increased from \$150 to \$250. This was based on my belief that the operator's alleged failure to install new bolts to abate the condition cited measurably increased the negligence and gravity of the violation. A review of the Secretary's prehearing submissions, however, shows that MSHA is not claiming that the failure to abate properly changed the character of the violation from that of non-S & S to that of significant and substantial.

The premises considered, therefore, it is ORDERED that the order of February 28, 1986 be, and hereby is, VACATED and the parties motions to withdraw and settle this matter by payment of a penalty of \$150 be, and hereby are, APPROVED.

It is FURTHER ORDERED that the operator pay the amount of the settlement agreed upon, \$150, on or before Friday, July 6, 1986 and that subject to payment the captioned matter be DISMISSED. Finally, it is ORDERED that the hearing scheduled for Thursday, June 26, 1986 be, and hereby is, CANCELLED.

Joseph B. Kennedy
Administrative Law Judge

