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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 86-112
A.C. No. 46-01438-03631

v.

Ireland UG Mine

CONSOLIDATION COAL COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a motion to approve settlement of the one violation involved in this case. The originally assessed penalty was \$750. The proposed settlement is for \$250.

The Solicitor's motion discusses the violation in light the six criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. Order No. 2714192 was issued for violation of 30 C.F.R. 75.902 because of the inoperative state of the failsafe ground check circuit. A back-up ground check system was not functioning due to a manufacturer's defect. The Solicitor represents that a reduction in the proposed penalty is justified because the negligence of the operator was less than was originally thought. The company was not aware that the circuit and back-up system were not working. The parties had proposed a settlement of \$100. Because of the seriousness of the violation, the initial proposed settlement was rejected and the parties were advised to reconfer. A settlement in the amount of \$250 was then proposed.

The representations and recommendations of the parties are now accepted. However, the operator should take whatever action is necessary including discipline, if appropriate, to prevent any recurrence of such an incident.

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Accordingly, the motion to approve settlement is GRANTED and the operator is ORDERED TO PAY \$250 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge