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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. SE 86-126
A.C. No. 01-00515-03648

v.

Mary Lee No. 1 Mine

DRUMMOND COMPANY, INC.,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The parties have filed a joint motion to approve settlements of the two violations involved in this case. The settlements are the result of a conference call between the Solicitor, operator's attorney, and the Judge. The total of the originally assessed penalties was \$1,450. The total of the proposed settlements is \$1,250.

The motion discusses both violations in light of the six criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. Order No. 2602747 was issued for violation of 30 C.F.R. 75.200 because of noncompliance with the approved roof control plan. An insufficient number of timbers had been installed in an area where there had been a roof fall. The timbers were spaced too far apart. In addition, the area of the roof fall had been cut too wide and there was evidence that a miner had walked eight feet under unsupported roof. The operator has agreed to pay the \$800 penalty originally assessed for this violation.

Order No. 2602744 was issued for violation of 30 C.F.R. 75.1003Å2 because a piece of off-track equipment was transported along the trolley roadway without the proper precautions having been taken. A reduction in the proposed penalty for this violation from \$650 to \$450 is now recommended because of reduced negligence. The operator believed in good faith that the equipment involved, a conveyor tailpiece, was not covered by the regulation. The Solicitor further advises that the term "off-track" is not presently defined in the regulations and that accordingly, negligence is less than originally estimated.

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The representations and recommendations of the parties are accepted.

Accordingly, the motion to approve settlements is GRANTED and the operator is ORDERED TO PAY \$1,250 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge