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SOL (MSHA) V. DRUMMOND
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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)

CIVIL PENALTY PROCEEDING

Docket No. SE 86-135
A.C. No. 01-00515-03650

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 total of the originally assessed penalties was \$2,200. The total of the proposed settlements is \$1,950.

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. 2606500 was issued for violation of 30 C.F.R. 75.200 because a roof bolter began installing bolts before the temporary roof support jacks were in place. A reduction in the proposed penalty for this violation, from \$1,250 to \$1,000, is now recommended because of reduced gravity. Only one miner was exposed to the hazard, rather than two, as was originally believed. The one miner exposed was protected somewhat by a canopy and by the fact that he was standing next to the rib.

Order No. 2605858 was issued for violation of 30 C.F.R. 75.316 because of failure to comply with the approved ventilation plan. The line brattice was 38 feet from the deepest penetration of the face, rather than 10 feet as required by the plan. The air velocity was only 47 feet per minute, rather than 60 feet per minute as required by the plan. A concentration of methane of 1.4 percent had been allowed to accumulate. The operator has agreed to pay the \$950 penalty originally assessed for this violation.

The representations and recommendations of the parties are accepted. The settlements are for substantial amounts and are in accord with the statutory purposes.

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Accordingly, the motion to approve settlements is GRANTED and the operator is ORDERED TO PAY \$1,950 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law