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SOL (MSHA) V. STREET 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

v.

STREET & WHITED COAL CO.,
INC.,

RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. VA 86-49
A.C. No. 44-00749-03526

No. 8 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On April 23, 1987, the Secretary of Labor filed a motion for approval of a settlement reached by the parties in this case. The violations were originally assessed at \$10,300 and the parties propose to settle for \$6300.

Four violations are cited in this docket, all growing out of a fatal roof fall on February 19, 1986. With respect to three of the violations— for altering the accident scene before the inspector arrived (\$200); for failure to notify MSHA immediately after the accident occurred (\$100); for failure to give a new miner the required 40 hours training (\$2000)—the settlement agreement proposes that the operator pay the amount originally assessed. With respect to the fourth violation, failure to follow the approved roof control plan, the settlement proposes payment of \$4000, rather than the \$8000 originally assessed. There were no eye witnesses to the accident and there is some doubt as to whether the miner was installing temporary roof supports when the fall occurred, which would have been permissible under the roof control plan, rather than installing permanent supports. Respondent is a small operator, had a total of 81 violations in the 24 months prior to the violations cited here including 6 violations of 30 C.F.R. 75.200.

I have considered the motion in the light of the criteria in section 110(i) of the Act and conclude that it should be approved.

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Accordingly, the settlement is APPROVED AND Respondent is ORDERED TO PAY the sum of \$6300 within 30 days of the date of this order.

James A. Broderick
Administrative Law Judge