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SOL (MSHA) V. CONSOLIDATION COAL
DDATE:
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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 PROCEEDINGS

Docket No. WEVA 87-67
A.C. No. 46-01452-03621

v.

Arkwright Mine

CONSOLIDATION COAL COMPANY,
RESPONDENT

Docket No. WEVA 87-42(A)
A.C. No. 46-01453-03735

Docket No. WEVA 87-419
A.C. No. 46-01453-03711

Docket No. WEVA 87-68
A.C. No. 46-01453-03737

Humphrey No. 7 Mine

Docket No. WEVA 87-70
A.C. No. 46-01455-03650

Osage No. 3 Mine

Docket No. WEVA 86-384
A.C. No. 46-01454-03667

Pursglove No. 15 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On May 15, 1987, the parties filed a joint motion for approval of a settlement reached between them. The above dockets contain a total of 10 alleged violations of 30 C.F.R. Part 50 and were originally assessed in the total amount of \$400. The motion proposes a settlement for the payment of a total of \$5000, or \$500 for each alleged violation.

On the alleged violations, five were originally assessed at \$20 each, four were assessed at \$50 each, and one was

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assessed at \$100. The motion states that the parties disagreed as to the proper interpretation of the requirements of Part 50, but that Consol agrees to comply with the broad intent of Part 50 and MSHA's interpretation thereof in the informational bulletin issued in December 1986. The settlement does not constitute an admission by Consol to any violation of the Act or the regulations or standards promulgated thereunder, but for the purposes of the settlement, Consol consents to a finding of the existence of the alleged violations. Consol is a large operator; the violations were serious and the result of negligence. They were abated in good faith. Consol has an average history of violations for an operator of its size.

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.

Accordingly, the settlement is APPROVED and Respondent is ORDERED TO PAY the sum of \$5000 within 30 days of the date of this order.

James A. Broderick
Administrative Law Judge