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SOL (MSHA) V. HELEN MINING
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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. PENN 87-104
A.C. No. 36-00926-03671

v.

Homer City Mine

HELEN MINING COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

ORDER TO PAY

Before: Judge Merlin

The Solicitor has filed a motion to approve settlement of the violation involved in this case. The originally assessed amount was \$1,000 and the proposed settlement is for \$500.

The subject order was issued for a violation of 30 C.F.R. 75.400 because combustible materials, float coal dust and loose coal, were permitted to accumulate along the Number 4 belt conveyor. The loose coal had accumulated under the belt and belt roller for a distance of approximately 600 feet and was 4 to 18 inches deep. Float coal dust in the belt entry extended a distance of approximately 1,700 feet. The Solicitor represents that a reduction from the original assessment is warranted for the following reasons:

The special assessment of this violation indicated that this violation could have contributed to the propagation of a fire or an explosion. Float coal dust in the belt entry extended a distance of approximately 1,700 feet. The bottom belt rollers could have become overheated and provided an ignition source for the accumulations. Further investigation into the matter revealed that the Assessment Office did not take into account the modification MSHA Inspector William McClure made with reference to the description of the condition. Further conversations with this inspector have revealed that the condition was not as grave as it has been assessed. The modification and the inspector have revealed that approximately 600 feet of

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the 1,750 feet of the loose coal accumulations between Number 20 to Number 22 marker and from the Number 1 marker to Number 18 marker was [sic] damp to wet. Additionally, 70 feet of the 150 feet of float coal dust outby the Number 18 marker was [sic] damp to wet. Inspector McClure has stated that the remainder of the accumulations was not completely dry but in a damp to dry condition. He also checked for hot rollers and found not [sic] hot rollers. He checked for electrical violations and found no electrical violations in the area. He believed that the conditions in the belt entry were generally of a damp nature. Accordingly, the propagation of a fire or an explosion was not probable.

The Solicitor is to be commended for her comprehensive explanation.

In light of the foregoing, I accept the Solicitor's representations and approve recommended settlement. I further note that the settlement amount remains substantial.

Accordingly, the motion to approve settlement is GRANTED and the operator is ORDERED TO PAY \$500 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge