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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

CONSOLIDATION COAL COMPANY,
CONTESTANT

v.

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
RESPONDENT

CONTEST PROCEEDING

Docket No. SE 87-49-R
Order No. 2842983; 1/7/87

Matthews Mine

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

CONSOLIDATION COAL COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. SE 87-86
A.C. No. 40-00520-03620

Matthews Mine

DECISION APPROVING SETTLEMENT
ORDER OF DISMISSAL

Before: Judge Broderick

On October 27, 1987, the parties filed a joint motion to approve settlement together with exhibits. On November 9, and November 19, 1987, the Secretary filed supplements to the motion at my request.

In the contest proceeding, Consol seeks review of an imminent danger withdrawal order issued under section 107(a) of the Act. The penalty case seeks penalties for four alleged violations of 30 C.F.R. 75.1704, each originally assessed at \$500. The motion states that the parties agree to settle each violation for \$300. The 107(a) order was issued because the Inspector concluded that the four violations collectively constituted an imminent danger.

The violations resulted from rock falls which blocked four separate areas in the intake escapeways in the subject mine. The motion states that the Secretary now believes that the 107(a) order was issued in error, and that the gravity of the violations was not as serious as originally thought because there were two travellable escapeways for all persons to exit the mine.

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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 \$1200 within 30 days of the date of this order.

IT IS FURTHER ORDERED that Order No. 2842983 is VACATED, and the review proceeding is DISMISSED.

James A. Broderick
Administrative Law Judge