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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No. KENT 87-186
A.C. No. 15-02218-03519

No. 1 Mine

FIFE COAL COMPANY,
INCORPORATED,
RESPONDENT

DECISION APPROVING SETTLEMENT
ORDER TO PAY

Before: Judge Merlin

The parties have filed a motion to approve settlements of the five violations involved in this case. The total of the originally proposed penalties were \$960. The total of the recommended settlements are \$720.

The parties motion discusses the violations in lights of the six criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. The citations were issued for violations of 30 C.F.R. 75.1710 because canopies were not installed on five pieces of equipment. The parties represent that a reduction from the original assessments is warranted because due to the nature of the seam (rolling floor and roof) the coal height varied from 40 to 60 inches. Canopies are required by regulation in 60Äinch coal, but, are not required in 40Äinch coal. Therefore, compliance with the regulation would have been difficult given the nature of the seam. Furthermore, the operator, who is now out of business, is small and is having serious financial problems. I accept the parties representations and approve the recommended settlements.

For the foregoing reasons, the motion to approve settlement is GRANTED and the operator is ORDERED TO PAY \$720 in installments according to the following schedule: One hundred and forty-four dollars within 30 days of this decision; one hundred and forty-four dollars within 60 days of this decision; one

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hundred and forty-four dollars within 90 days of this decision;
one hundred and forty-four dollars within 120 days of this
decision; and finally, \$144 within 150 days of this decision.

Paul Merlin
Chief Administrative Law Judge