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SOL (MSHA) V. B AND D COAL
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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

CIVIL PENALTY PROCEEDING

Docket No. SE 88-53
A. C. No. 40-02944-03513

v.

No. 7 Mine

B AND D COAL COMPANY,
INCORPORATED,
RESPONDENT

DECISION

Appearances: Mary Sue Ray, Esq., Office of the Solicitor, U. S.
Department of Labor, Nashville, Tennessee, for the
Secretary;
Bruce Anderson, Esq., McCampbell & Young, Knoxville,
Tennessee, for the Respondent.

Before: Judge Weisberger

This case is before me upon a petition for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). Pursuant to Notice, this case was scheduled for hearing on March 29, 1989, in Knoxville, Tennessee. At the hearing, the Parties entered into settlement discussion and made a joint motion to approve settlement. A reduction in penalty from \$8,000 to \$4,000 is proposed. Based on the representation set forth in the stipulated facts filed on March 29, 1989, as well as the testimony and documentary evidence admitted on March 29, 1989, in support of the joint motion, I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that Respondent pay a penalty of \$4,000 within 30 days of this order.

Avram Weisberger
Administrative Law Judge