

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

May 23, 1989

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. **WEVA** 89-73
Petitioner : A. C. No. 46-01867-03781
v. :
 : Blacksville No. 1 Mine
CONSOLIDATION COAL COMPANY, :
Respondent :

DECISION

Appearances: Jack E. Strausman, Esq., Office of the
Solicitor, U. S. Department of Labor,
Arlington, Virginia, for the Petitioner.
Michael R. Peelish, Esq., Consolidation Coal
Company, Pittsburgh, Pennsylvania, for the
Respondent.

Before: Judge Merlin

When this case came on **for** hearing, the parties advised that they had reached a proposed settlement. Other cases set for hearing at the same time were heard on the merits.

The subject citation was issued for a violation of 30 C.F.R. § 50.20(a) because the operator did not submit the required form notifying MSHA of an accident within 10 working days. The form was submitted on the eleventh day. The original assessed penalty was \$150. Operator's counsel advised that the operator now had decided it would pay the assessed penalty rather than go to a hearing. However, counsel pointed out that the one-day delay occurred during a holiday weekend.

Based upon the foregoing I found that under **the** circumstances described, negligence was greatly **mitigated**. Accordingly, a penalty of \$75 was assessed from **the** bench and is hereby AFFIRMED.

It is ORDERED that the operator pay \$75 within 30 days from the date of this decision.

A handwritten signature in black ink, appearing to read "Paul Merlin". The signature is fluid and cursive, with a large initial "P" and "M".

Paul Merlin
Chief Administrative Law Judge

Distribution:

Jack **F.** Strausman, Esq., Office of the Solicitor, U. **S.** Department of Labor, 4015 Wilson Boulevard, Room 516, Arlington, VA 22203 (Certified Mail)

Michael R. Peelish, Esq., Consolidation Coal Company, 1800 Washington Road, Pittsburgh, PA 15241 (Certified Mail)

Robert Stropp, **Esq.**, UMWA, 900 15th Street, N.W., Washington, DC 20005 (Certified Mail)

/gl