

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

October 29, 1990

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. SE 90-83
Petitioner : A. C. No. 01-02776-03510
: :
v. : **Bibby Mine**
: :
DRUMMOND COMPANY :
INCORPORATED, :
Respondent :

DECISION APPROVING SETTLEMENT
ORDER TO PAY

Before: Judge Merlin

The parties have filed a joint motion to approve settlement of the one violation involved in this case. The originally assessed penalty was \$800 and the proposed settlement is \$400. The parties have discussed the violation in light of the six statutory criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977.

Citation No. 3018301 was issued for a violation of 30 C.F.R. § 75.220 because roof bolt spacing in the entry and adjacent crosscuts ranged from 5- $\frac{1}{2}$ to 10 feet. However, the roof control plan required that installed roof bolts be no further than 5 feet apart. The parties represent that the reduction is justified because the negligence and gravity were not as high as originally estimated. According to the parties, this is a small mine which had been examined by the same inspector for approximately four months. During that entire period, this was the only instance where the inspector found the roof bolts to be in excess of 5 feet apart. In addition, the parties advise that the number of miners affected was three or four instead of the six originally noted. Finally, the parties aver that the two roof bolters responsible for the violation were given disciplinary warnings in accordance with the operator's progressive disciplinary program. I accept the foregoing representations and approve the recommended settlement which remains a substantial amount.

Accordingly, it is ORDERED that the proposed settlement be APPROVED and the operator PAY \$400 within 30 days of the date of this decision.



Paul Merlin
Chief Administrative Law Judge

Distribution:

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