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SOL (MSHA) v. BLACKFOOT COAL
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges
2 Skyline, 10th Floor
5230 Leesburg Pike
Falls Church, Virginia 22041

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

v.

BLACKFOOT COAL COMPANY, INC.,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. VA 90-44
A. C. No. 44-05415-03563

No. 1 Mine

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On May 8, 1991, the Secretary filed a motion for approval of a settlement reached by the parties in this case. The violations were originally assessed at \$4273, and the parties proposed to settle for \$3273.

The docket contains three citations and a 104(d)(1) order issued following a nonfatal roof fall accident. The fall caused a fractured pelvis of a continuous mining machine helper. Citation No. 3351176 charged a violation of 30 C.F.R. 75.203 because a pillar block had been mined in excess of the maximum width allowed by the Roof Control Plan. The violation was assessed at \$2000. The motion proposes a reduction to \$1500 because (1) the inspector's diagram does not accurately reflect the condition that existed in that it shows more coal having been removed than was actually the case; (2) the violation concerns the condition of the pillar block between entries 5 and 6; the roof fall occurred between entries 4 and 5. Order No. 3351928 charged a violation of 30 C.F.R. 75.220 because posts or timbers had not been installed as required by the Roof Control Plan. The violation was assessed at \$2000. The motion proposes a reduction to \$1500 because it appears that the posts or timbers were not designed to and would not prevent a roof fall. The other three citations were originally assessed at \$91 each, and the motion proposes that the assessed amount be paid. 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.

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Accordingly, the settlement is APPROVED and Respondent is ORDERED TO PAY the sum of \$3273 within 30 days of the date of this Decision.

James A. Broderick
Administrative Law Judge