

CCASE:  
SOL (MSHA) V. LAMBERT 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

v.

LAMBERT COAL COMPANY,  
RESPONDENT

CIVIL PENALTY PROCEEDINGS

Docket No. VA 91-565  
A.C. No. 44-01656-03530D

Docket No. VA 91-566  
A.C. No. 44-05654-03539D

Docket No. VA 91-567  
A.C. No. 44-05210-03543D

Docket No. VA 91-568  
A.C. No. 44-05831-03552D

Docket No. VA 91-569  
A.C. No. 44-06582-03507D

Mines 14, 43, 44, 47, 48

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On November 1, 1991, the Secretary and Respondent filed a motion to approve a settlement in the above cases. The above five dockets contain 10 alleged violations of 30 C.F.R. 70.209(b) in each of which the Secretary alleged that Respondent altered the weight of a respirable dust sample submitted by Respondent as part of its sampling requirements. The Secretary contends that the violations resulted from a deliberate act; the operator denies that it deliberately tampered with or altered any of its dust filter media.

Each violation was originally assessed at \$1100, for a total penalty of \$11,000. The settlement proposes that each penalty be reduced to \$825, for a total penalty of \$8250, the reduction based on a dispute between the parties as to the degree and existence of negligence.

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, IT IS ORDERED:

1. The settlement agreement is APPROVED.
  
2. Respondent shall within 30 days of the date of this order pay the sum of \$8250 as a civil penalty for the alleged violation.

James A. Broderick  
Administrative Law Judge