

CCASE:  
CONSOLIDATION COAL V. MSHA  
MSHA V. CONSOLIDATION COAL  
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March 24, 1992

CONSOLIDATION COAL COMPANY,	:	CONTEST PROCEEDING
Contestant	:	
	:	Docket No. WEVA 91-247-R
v.	:	Citation No. 3315776; 2/26/91
	:	
	:	Blacksville No. 1 Mine
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Mine ID 46-01867
ADMINISTRATION (MSHA),	:	
Respondent	:	
	:	
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEVA 91-1553
Petitioner	:	A. C. No. 46-01453-03788
	:	
v.	:	Humphrey No. 7 Mine
CONSOLIDATION COAL COMPANY,	:	
Respondent	:	Docket No. WEVA 91-2022
	:	A. C. No. 46-01867-03909
	:	
	:	Docket No. WEVA 92-146
	:	A. C. No. 46-01867-03912
	:	
	:	Blacksville No. 1 Mine

DECISION

Appearances: Walter J. Scheller III, Esq., Consolidation Coal Company, Pittsburgh, Pennsylvania, for Contestant-Respondent;  
Charles M. Jackson, Esq., Office of the Solicitor, U. S. Department of Labor, Arlington, Virginia, for Respondent-Petitioner.

Before: Judge Merlin

When the above-captioned cases came on for hearing on March 9, 1992, counsel for both parties advised that settlements had been reached. With permission of the bench these settlements were placed upon the record. Other cases scheduled for hearing at the same time were heard on the merits.

WEVA 91-1553

This case involved two violations which were originally assessed at \$518 and the proposed settlement was for \$414.

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Citation No. 3307921 was issued for a violation of 30 C.F.R. 75.220 because the main haulage entry was in excess of 20 feet wide and was not supported as required by the approved roof control plan. The proposed settlement modified the citation to reflect that the violation was not significant and substantial. The originally assessed penalty was \$259 and the proposed settlement was \$155. The Solicitor represented that the reduction and modification were warranted because gravity was less than originally thought. According to the Solicitor, the roof in the area cited was not in poor condition. The foregoing representations were accepted from the bench and the proposed settlement was approved.

Citation No. 3328103 was issued for a violation of 30 C.F.R. 75.518 because the water pump did not have adequate overloa protection. The operator has agreed to pay the originally assessed penalty for this violation. The circumstances of this violation were explained and I accepted the proffered amount from the bench.

WEVA 91-2022

Citation No. 3307720 was issued for a violation of 30 C.F.R. 50.10 because the operator failed to immediately report a fire that occurred in the surface slack silo during silo cleaning operations by an independent contractor. The originally assessed penalty was \$500 and the proposed settlement was \$200. The Solicitor represented that the penalty reduction was warranted because negligence was less than originally thought. The Solicitor advised that there was some confusion by the independent contractor and the operator as to whether the incident was a mine fire reportable under the regulations. Therefore, the Solicitor stated that the negligence should be modified from high to moderate. The foregoing representations were accepted from the bench and the proposed settlement was approved.

WEVA 92-146 and WEVA 91-247-R

These cases are a petition for the assessment of a civil penalty and a corresponding notice of contest. Citation No. 3315776 was issued for a violation of 30 C.F.R. 75.303. An inadequate pre-shift examination allegedly was conducted on the P-8 longwall supply track because an obvious hazardous condition existed and was not reported. The Solicitor moved to vacate the citation on the ground he would be unable to establish that the hazardous condition existed at the time of the pre-shift. The foregoing representations were accepted from the bench and the motion to vacate was approved and the cases dismissed.

ORDERS

In light of the foregoing the recommended settlements are APPROVED.

It is ORDERED that Citation No. 3307921 be MODIFIED to delete the significant and substantial designation and the operator PAY \$414 within 30 days of the date of this decision.

It is further ORDERED that Citation No. 3307720 be MODIFIED to reflect the operator's negligence as moderate and the operator PAY \$200 within 30 days of the date of this decision.

It is further ORDERED that Citation No. 3315776 be VACATED and that Docket Nos. WEVA 91-247-R and WEVA 92-146 be DISMISSED.

Paul Merlin  
Chief Administrative Law Judge

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