

CCASE:  
SOL (MSHA) V. CONSOLIDATION COAL  
DDATE:  
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TTEXT:

March 26, 1993

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. PENN 92-715
Petitioner	:	A. C. No. 36-04281-03782
	:	
v.	:	Dilworth Mine
	:	
CONSOLIDATION COAL COMPANY,	:	
Respondent	:	

DECISION APPROVING SETTLEMENT  
ORDER TO MODIFY  
ORDER TO PAY

Before: Judge Merlin

The above-captioned case was the subject of an extensive conference call between the undersigned and counsel for both parties on January 28, 1993. On March 1, 1993, the Solicitor filed a motion to approve settlement of the four violations involved in this case. The originally assessed penalties were \$1,086 and the proposed settlements are for \$937.

In accordance with the conference call discussion, the Solicitor advises that the operator has agreed to pay the originally assessed penalty for two of the violations, Citation Nos. 3699761 and 3679100. The Solicitor requests that the penalties for Citation Nos. 3691011 and 3691019 be reduced and the citations be modified.

Citation No. 3691011 was issued for a violation of 30 C.F.R. 75.509 because the operator did not danger and tag a plug for power circuit which was being worked on. The originally assessed penalty was \$506 and the proposed settlement is \$425. The Solicitor also requested that the citation be modified by reducing the type of injury from fatal to permanently disabling because the voltage was not as great as originally thought. The agreed upon settlement was reached at the January 28 conference call wherein the reasons for the modification and reduction were discussed and approved by the undersigned.

Citation 3691019 was issued for violation of 30 C.F.R. 75.1722 because a crossunder provided for the No. 1 belt was not guarded. The originally assessed penalty was \$168 and the proposed settlement is \$100. The Solicitor also requested that the citation be modified by deleting the significant and substantial designation. The Solicitor advised that the reason for

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the modification is foot traffic underneath the belt was unlikely when the belt was moving.

I have considered the representations and documentation submitted in this case along with the discussions on January 28, and I conclude that the proffered settlements are appropriate under the criteria set forth in section 110(i) of the Act.

In light of the foregoing, the motion for approval of settlements is GRANTED.

It is ORDERED that Citation No. 3691011 be MODIFIED to reduce the type of injury from fatal to permanently disabling.

It is further ORDERED that Citation No. 3691019 be MODIFIED to delete the significant and substantial designation.

It is further ORDERED that the operator pay a penalty of \$937 within 30 days of the date of this decision.

Paul Merlin  
Chief Administrative Law Judge

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Nancy F. Koppleman, Esq., Office of the Solicitor, U. S. Department of Labor, 14480 Gateway Building, 3535 Market Street, Philadelphia, PA 19104

Daniel E. Rogers, Esq., Consol Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, PA 15241

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