

CCASE:
SOL (MSHA) V. CONSOLIDATION COAL
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SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. PENN 92-771
Petitioner	:	A.C. No. 36-
	:	
v.	:	
	:	
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 15, 1993, the Solicitor filed a motion to approve settlement of the one violation involved in this case. The originally assessed penalty was \$227 and the proposed settlement is for \$175.

Citation No. 3691596 was issued for a violation of 30 C.F.R. 77.402(a) because the bathroom on the first floor of the pre plant was not maintained in sanitary condition. The Solicitor requests that the citation be modified to reduce the likelihood of injury from reasonably likely to unlikely and to delete the significant and substantial designation. 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.

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

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

It is ORDERED that Citation No. 3691596 be MODIFIED to reduce the likelihood of injury from reasonably likely to unlikely and to delete the significant and substantial designation.

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It is further ORDERED that the operator pay a penalty of \$175 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

, Esq., Office of the Solicitor, U.S. Department of Labor, 14480
Gateway Bldg., 3535 Market St., Philadelphia, PA 19104

Daniel E. Rogers, Esq., Consol Inc., Consol Plaza, 1800 Washing-
ton Road, Pittsburgh, PA 15241