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SECRETARY OF LABOR : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA) : Docket No. KENT 92-713
Petitioner : A. C. No. 15-16779-03528
:
v. : Mine No. 3
:
HUSKY COAL COMPANY, INC. :
Respondent :

ORDER TO SUBMIT INFORMATION

In response to the second show cause order the Solicitor has filed a one line motion to dismiss on the ground that the operator has paid the "revised" penalty assessment in full. The Solicitor does not explain what the revised assessment is.

The Solicitor is reminded that under section 110(k) of the Act Commission judges have the responsibility to approve all settlements and that this jurisdiction is not defeated merely because an operator chooses to pay an amount the Solicitor finds agreeable. The legislative history of the 1977 Mine Safety and Health Act demonstrates that Congress intended that the Commission be an active participant in all such matters. The Solicitor is further reminded that the Commission is not bound by the Secretary's original assessments because all penalty matters are before the Commission de novo.

In light of the foregoing, it is Ordered that within 30 days of the date of this order the Solicitor file a motion explaining what amount the operator paid and why these amounts satisfy the requirements of section 110(i) of the Act

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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