

CCASE:
SOL (MSHA) V. RED LAVA PRODUCTS OF CALIFORNIA
DDATE:
19791223
TTEXT:

~2113

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

Civil Penalty Proceeding
Docket No. DENV 78-578-PM
A/O No. 04-01036-05001

v.

Red Lava Pit & Mill

RED LAVA PRODUCTS OF CALIFORNIA,
RESPONDENT

DECISION APPROVING SETTLEMENTS
ORDER TO PAY

The Solicitor has filed a motion to approve settlements in the above-captioned proceeding.

This case involves four citations. The citation numbers, the mandatory standards, the original assessments, and the proposed penalties are set forth below.

Citation No.	Date	Health or Safety Standard Violated (CFR Title 30)	Proposed Penalty	Proposed Amended Penalty
00374661	5-31-78	55.9-54	\$60.00	\$51.00
00374663	5-31-78	55.12-13	84.00	62.00
00374664	5-31-78	55.9-22	28.00	24.00
00374665	5-31-78	55.9-22	44.00	39.00

The Solicitor advises in her motion that further investigation leads her to believe that negligence is less than was originally assessed. In addition, the Solicitor advises that there is no prior history of violations and that these violations were abated in good faith.

The Solicitor's motion is deficient because it discusses all the violations as a group. Each alleged violation should be discussed individually and the reason for each proposed settlement should be discussed item by item. Nevertheless, in this case, since the proposed reductions are not large I have reviewed the citations, the assessment sheet and the attached inspector's statements. I particularly note that the operator has no history of prior violations. Based upon my review of pertinent materials I conclude that the recommended settlements are consistent with and will effectuate the purposes of the Act. However, the Solicitor should not submit a motion such as this in the future because I will not approve it.

~2114

ORDER

In light of the foregoing the recommended settlements are approved and the operator is ORDERED to pay \$176 within 30 days from the date of this decision.

Paul Merlin
Assistant Chief Administrative Law Judge