

CCASE:
SOL (MSHA) V. HYANNIS SAND & GRAVEL
DDATE:
1980612
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

Civil Penalty Proceeding
Docket No. YORK 80-60-M
A/O No. 19-00557-05006-H

v.

Falmouth Pit & Mill

HYANNIS SAND & GRAVEL,
INCORPORATED,
RESPONDENT

DECISION

Appearances: David Baskin, Esq., Office of the Solicitor,
U.S. Department of Labor, Boston, Massachusetts,
for Petitioner, MSHA Paul Lorusso, Hyannis Sand
and Gravel, Inc., Hyannis, Massachusetts, for
Respondent, Hyannis Sand and Gravel, Inc.

ORDER TO PAY

Before: Judge Merlin

The above-captioned case is a petition for the assessment of a civil penalty filed by MSHA against Hyannis Sand and Gravel, Incorporated. The citation at issue involved a lack of adequate brakes on a haulage truck, a violation of 30 CFR 56.9-3.

At the hearing on June 2, 1980, the Solicitor moved to have a settlement approved in the amount of \$200, reduced from the original assessment of \$1,000 (Tr. 4). The parties stipulated that respondent has a small history of prior violations, is small in size, that the alleged violation was abated in good faith and that the imposition of a penalty here will not affect the operator's ability to continue in business (Tr. 3). The Solicitor stated that the violation was only of moderate gravity since other braking systems as well as the emergency braking system were operational so that the vehicle could be stopped. From the bench I approved the settlement, expressing the view that the original proposed penalty was excessive (Tr. 4-5).

ORDER

The settlement approved on June 2, 1980, is hereby AFFIRMED.

The operator is ORDERED to pay \$200 within 30 days from the date of this decision.

Paul Merlin
Assistant Chief Administrative Law Judge

