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SOL (MSHA) V. HAYWARD MIX
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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. LAKE 80-74-M A/O No. 47-02554-05002
v.	Stress Pit
HAYWARD READY MIX COMPANY, INC., RESPONDENT	

DECISION

Appearances: Eva L. Clarke, Esq., Office of the Solicitor, U.S. Department of Labor, Arlington, Virginia, for the Petitioner
Ronald G. Poquette, Esq., Betz, LeBarron & Poquette, Eau Claire, Wisconsin, for the Respondent

Before: Judge Stewart

This is a proceeding filed by the Secretary of Labor, Mine Safety and Health Administration (MSHA), under section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a) (hereinafter the Act), to assess civil penalties against Hayward Ready Mix. The contested citations in this case and the disposition are as follows:

Number	Date	30 C.F.R. Standard	Assessment	Disposition Settlement
295815	8/08/79	56.12-13	\$90.00	Withdrawn
295816	8/08/79	56.12-13	\$90.00	Withdrawn
295817	8/08/79	56.12-13	\$90.00	\$90.00

At the onset of the hearing held in the above-captioned proceeding on August 6, 1981, in Eau Claire, Wisconsin, the parties stipulated that the administrative law judge has jurisdiction in this matter; at all times relevant in this matter Inspector Nelson Walter was a duly authorized representative of the Mine Safety and Health Administration; the operator is a small size operator and that the operator will be able to pay penalties if imposed.

After the testimony of the inspector, the issue as to whether two of the citations involved the log washer, the scalper drive motor, or the scalper conveyor drive motor was not resolved. The parties conferred off the record and agreed that two citations would be withdrawn and the full assessed penalty would be paid for the remaining citation.

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Based on the testimony of the parties, the information furnished and an independent review and evaluation of the circumstances, I find the settlement proposed is in accord with the provisions of the Act.

ORDER

The settlement negotiated by the parties in the above-captioned proceeding is APPROVED.

Respondent is ORDERED to pay the amount of \$90.00 within 20 days of the date of this order.

Forrest E. Stewart
Administrative Law Judge