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SOL (MSHA) V. EL PASO SAND PRODUCTS
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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. CENT 85-43-M
A.C. No. 41-03162-05504

v.

Chadwick Pit

EL PASO SAND PRODUCTS, INC.,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a motion to approve settlements of the eight violations involved in this matter. The originally assessed amounts were \$3,600 and the proposed settlements are for \$3,600. The Solicitor's motion is wholly inadequate because it does not analyze the violations or demonstrate why the proposed settlements should be allowed beyond reciting the bare conclusion that they are fair and reasonable. Moreover, the Solicitor erroneously refers to section 105(b)(1)(B) of the Act which concerns the Secretary's assessment of civil penalties instead of section 110(i) which sets forth the Commission's authority. However, MSHA's narrative findings fully explain and justify the violations and penalty amounts in light of the statutory criteria set forth in section 110(i). On the basis of MSHA's analysis, I accept the recommended proposals.

Accordingly, the recommended settlements are Approved and the operator having paid, this matter is Dismissed.

Paul Merlin
Chief Administrative Law Judge