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SOL (MSHA) V. HASKELL COUNTY GRAVEL
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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. CENT 89-69-M
A.C. No. 34-01287-05507

v.

Haskell County Pit & Plant

HASKELL COUNTY GRAVEL CO., INC.,
RESPONDENT

DECISION APPROVING SETTLEMENT

Appearances: Robert A. Fitz, Esq., Office of the Solicitor,
U.S. Department of Labor, Dallas, Texas, for
the Secretary of Labor; Jerry Dick, Esq.,
Oklahoma City, Oklahoma, for Respondent.

Before: Judge Broderick

Pursuant to notice, the above case was called for hearing in Tulsa, Oklahoma, on November 14, 1989. On the record, the Secretary reviewed her motion to approve a settlement in the amount of \$5000, which I had denied by order issued October 30, 1989. The record included a written statement from the owner of Haskell County Gravel, and copies of the company's income tax returns for 1986, 1987, and 1988.

Haskell County is a small operator. It employs 14 or 15 persons and operates a single facility. Since it began business in 1983, it has operated as a loss. The tax returns for 1986 show a loss of \$118,521; for 1987 a loss of \$111,290; and for 1988 a loss of \$171,516. The owner states that Respondent's performance will improve somewhat in 1989, but it could still operate at a loss. The evidence submitted shows that the proposed penalty may have an adverse effect on Respondent's ability to continue in business.

I have considered the motion in the light of the criteria in section 110(i) of the Act, and conclude that it should be approved.

Accordingly, the settlement is APPROVED and, Respondent is ORDERED TO PAY the sum of \$5000 within 30 days of the date of this order.

James A. Broderick
Administrative Law Judge