

CCASE:
SOL (MSHA) V. B & M SAND & 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 89-159-M
A.C. No. 41-03455-05504

v.

Ennis Plant

B & M SAND & GRAVEL COMPANY,
RESPONDENT

DECISION

Appearances: Mary E. Witherow, Esq., Office of the Solicitor,
U.S. Department of Labor, Dallas, Texas for
Petitioner;
W. A. Keith, Dallas, Texas for Respondent.

Before: Judge Melick

This case is before me upon a petition for assessment of civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). At hearings Petitioner filed a motion to approve a settlement agreement and to dismiss the case. The Secretary moved to vacate Citation No. 3281506 and proposed a reduction in penalty from \$1,075 to \$806.25 for the remaining citations. I have considered the representations and documentation submitted in this case, and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that Respondent pay a penalty of \$806.25 within 30 days of this order.

Gary Melick
Administrative Law Judge