

CCASE:  
SOL (MSHA) V. BASIN ASPHALT  
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SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 92-587-M
Petitioner	:	A. C. No. 45-00603-05511
	:	
v.	:	
	:	
	:	
BASIN ASPHALT COMPANY,	:	Moses Lake Pit & Plant
Respondent	:	

DECISION APPROVING SETTLEMENT  
ORDER TO PAY

Before: Judge Merlin

This case is before me upon a petition for assessment of a civil penalty under section 105(d) of the Federal Mine Safety and Health Act of 1977. The parties have filed a joint motion to approve settlement. A reduction in the penalty from \$362 to \$181 is proposed. The parties advise that the Solicitor has agreed to modify Citation No. 3644310 by deleting the significant and substantial designation. I conclude that the proffered settlement is appropriate under the criteria set forth in section 110(i) of the Act. However, the Solicitor should be aware that in the future she must explain why the significant and substantial finding is being deleted and why negligence is being reduced. A conclusive statement will not suffice.

WHEREFORE, the motion for approval of settlement is GRANTED.

It is ORDERED that the operator pay a penalty of \$181 within 30 days of this order.

Paul Merlin  
Chief Administrative Law Judge

Distribution: (Certified Mail)

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