

CCASE:
SOL (MSHA) V. JEFFERSON MATERIALS
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SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. LAKE 93-40-M
Petitioner	:	A. C. No. 33-01526-05506
	:	
v.	:	
	:	
	:	
JEFFERSON MATERIALS COMPANY,	:	Howitt Plant
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

This case is before me upon a petition for assessment of the civil penalties under section 105(d) of the Federal Mine Safety and Health Act of 1977. The Solicitor has filed a motion to approve settlement. A reduction in the penalty from \$1,200 to \$960 is proposed. It appears that the proposed settlement is an across the board twenty percent reduction in assessments which gives no reasons, even though the violations are characterized as highly likely to result in a fatality. Nevertheless, based on the information in the file I approve the settlement in light of the operator's small size and history under the criteria set forth in section 110(i) of the Act.

The Solicitor should be aware however, such across the board reductions are troubling and in the future she must explicitly explain why the recommended amounts are appropriate.

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that the operator pay a penalty of \$960 within 30 days of this order.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

Elizabeth R. Ashley, Esq., Office of the Solicitor, U.S. Department of Labor, 881 Federal Bldg., 1240 East Ninth St., Cleveland, OH 44199

John E. Lower, Jefferson Materials Company, 8505 State Route 14, Streetsboro, Ohio 44241