

CCASE:
SOL (MSHA) V. WESTERN SAND & GRAVEL
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SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 92-524-M
Petitioner	:	A. C. No. 45-03119-05509
	:	
v.	:	
	:	
	:	
WESTERN SAND & GRAVEL,	:	Tenino Pit
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

This case is before me upon a petition for assessment of the civil penalties for ten violations under section 105(d) of the Federal Mine Safety and Health Act of 1977. The parties have filed a joint motion to approve settlements. A reduction in penalties from \$738 to \$642 is proposed. Nine of the ten citations involved in this case were assessed \$50 and are all non significant and substantial. The parties have agreed to settle these for the original amounts. I approve the findings for these violations and the proposed penalty amounts.

With respect to remaining citation, the Solicitor has agreed to reduce the penalty amount from \$288 to \$192. I find the \$192 penalty reasonable based upon reading of the citation and the statutory criteria set forth in section 110(i) of the Act. However, no reasons are given in the joint motion to support the recommended penalty. The Solicitor should be aware that in the future she must explicitly disclose why the penalty is appropriate under section 110(i) and explain the reduction in a penalty amount. The mere submission of boiler plate language for a reduction will not suffice.

WHEREFORE, the motion for approval of settlements is GRANTED, and it is ORDERED that the operator PAY a penalty of \$642 within 30 days of this order.

Paul Merlin
Chief Administrative Law Judge

Distribution: (Certified Mail)

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