

CCASE:
SOL (MSHA) V. DAVIS TRUCKING
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SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. LAKE 92-421-M
Petitioner : A. C. No. 33-00058-05502GTJ
 :
v. : Diamond Stone Mine
 :
DAVIS TRUCKING COMPANY, :
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 \$2,000 to \$1,000 is proposed. The one violation in this case was issued for failing to require the use of seat belts by the operator's truck drivers. The Solicitor represents that the reduction is warranted because the operator immediately instructed its drivers to wear seat belts after receiving the violation. In addition, the Solicitor advises that the operator is small in size, has a modest history of prior violations and is experiencing financial difficulties.

I have considered the representations and documentation submitted in this case, and I conclude that the proffered settlement amount which remains substantial 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 the operator pay a penalty of \$1,000 within 30 days of this order.

Paul Merlin
Chief Administrative Law Judge

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Distribution: (Certified Mail)

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