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SOL (MSHA) V. CALMAT OF CENTRAL CALIFORNIA  
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SECRETARY OF LABOR : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA) : Docket No. WEST 93-362-M  
Petitioner : A. C. No. 04-01711-05522  
:  
v. : River Rock Plant  
CALMAT OF CENTRAL :  
CALIFORNIA, :  
Respondent :

DECISION APPROVING SETTLEMENT  
ORDER TO PAY

Before: Judge Merlin

This case is before me upon a petition for assessment of civil penalties under section 105(d) of the Federal Mine Safety and Health Act of 1977. On June 18, 1993, the Solicitor filed a motion to approve settlement of the one violation involved in this case. The Solicitor sought approval of a 50% reduction in the penalty amount. On August 3, 1993, an order was issued disapproving the settlement because the Solicitor gave no reasons to support the proposed reduction. The Solicitor was ordered to file additional information to support his motion.

On August 24, 1993, the Solicitor filed an amended motion to approve settlement and on September 17, 1993, a second amended settlement motion.

In the second amended settlement motion the Solicitor furnishes reasons for the suggested reduction from \$1019 to \$509. The citation was issued for an inoperative back-up alarm on a crane. According to the Solicitor, gravity and negligence were less than originally thought because the crane was out of service when the citation was issued and the faulty alarm would have been discovered during the mandatory pre-operation inspection. As a result, the Solicitor has agreed to delete the significant and substantial designation. I accept the Solicitor's representations and I conclude that the settlement is appropriate under the six criteria set forth in section 110(i) of the Act. The file contains a memorandum from the Civil Penalty Compliance Office for MSHA indicating that the operator has paid \$451.50(Footnote 1) for this case.

1 \$451.50 was the amount specified in the original settlement motion but the Solicitor has advised my law clerk that the figure was erroneous.

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In light of the foregoing, it is ORDERED that the settlement motion filed September 17, 1993, is ACCEPTED as a response to the August 3 order.

It is further ORDERED that the recommended settlement be APPROVED and the operator having paid \$451.50, is ORDERED TO PAY \$57.50 within 30 days of the date of this decision.

Paul Merlin  
Chief Administrative Law Judge

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