

CCASE:  
SOL (MSHA) V. DOW SAND & GRAVEL  
DDATE:  
19940407  
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION  
1730 K STREET NW, 6TH FLOOR  
WASHINGTON, D.C. 20006

SECRETARY OF LABOR	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	Docket No. YORK 93-14-M
Petitioner	:	A. C. No. 27-00296-05502
	:	
v.	:	Docket No. YORK 93-19-M
	:	A. C. No. 27-00296-05503
DOW SAND & GRAVEL,	:	
Respondent	:	Docket No. YORK 93-20-M
	:	A. C. No. 27-00296-05505
	:	
	:	Docket No. YORK 93-28-M
	:	A. C. No. 27-00296-05504
	:	
	:	Dow Sand & Gravel

DECISION APPROVING SETTLEMENTS

Before: Judge Merlin

These cases are before me upon petitions for the assessment of civil penalties under section 105(d) of the Federal Mine Safety and Health Act of 1977. The Solicitor has filed motions to approve settlements for all the violations involved in these cases. The Solicitor proposes to settle these cases upon a payment of \$149 by the operator.

The basis for the Solicitor's proposed settlements is the operator's ability to pay. According to the Solicitor, this is a family owned mine which is operated on an intermittent basis, is small in size, and has been operating at a loss. In addition, the operator has had equipment repossessed and is undergoing financial hardship. The Solicitor further states that the operator has evidenced an improved attitude toward compliance. Finally, the Solicitor advises that the wife of the owner of the mine is very ill and the owner does not have health insurance.

I have reviewed the Solicitor's detailed motions. In light of the circumstances presented in these cases, I conclude that the proffered settlements are appropriate under section 110 of the Mine Act. The file contains a memorandum from MSHA's office of assessment indicating that the operator has paid the agreed upon settlement amount.

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WHEREFORE, the motions for approval of settlement are GRANTED, and the operator having paid, it is ORDERED that these cases be DISMISSED.

Paul Merlin  
Chief Administrative Law Judge

Distribution: (Certified Mail)

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