

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

May 18, 1995

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. CENT 94-212-M
Petitioner : A. C. No. 23-01557-05512
v. :
PIERCE SAND COMPANY, : Pierce Sand Company
Respondent :

DECISION APPROVING SETTLEMENT

Appearances: Margaret A. Miller, Esq., Office of the Solicitor,
U. S. Department of Labor, Denver, Colorado, for
the Secretary;
Bob Pierce, Stanberry, Missouri, pro se.

Before: Judge Maurer

This case is before me upon a petition for assessment of civil penalty under section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). An evidentiary hearing in this matter was held on March 2, 1995, in St. Joseph, Missouri. At the conclusion of that hearing, the parties filed a motion to approve a settlement agreement and to dismiss this case. A reduction in penalty from \$862 to \$556 is proposed. The citations, initial assessments, and the proposed settlement amounts are as follows:

<u>CITATION NO.</u>	<u>INITIAL ASSESSMENT</u>	<u>PROPOSED SETTLEMENT</u>
4321896	\$ 204	\$ 102
4321897	50	50
4321898	50	50
4321899	204	102
4321900	50	50
4322041	50	50
4322042	50	50
4322043	<u>204</u>	<u>102</u>
TOTAL	\$ 862	\$ 556

I have considered the representations and documentation submitted in this case, as well as the testimony contained in the record of

proceedings and I conclude that the proffered settlement 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 respondent pay a penalty of \$556 within 30 days of this decision, and upon receipt of that payment by MSHA, these proceedings are **DISMISSED**.

Roy J. Maurer
Administrative Law Judge

Distribution:

Margaret A. Miller, Esq., Office of the Solicitor,
U. S. Department of Labor, 1999 Broadway, Suite 1600, Denver, CO
80202-5716 (Certified Mail)

Bob Pierce, Owner, Pierce Sand Company, 111 East Main, Stanberry,
MO 64489 (Certified Mail)

dcp