

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

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April 14, 1996

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. WEST 95-248-M  
Petitioner : A.C. No. 04-05257-05502  
:  
v. :  
: Portable Crusher  
DCL CONSTRUCTION, INC., :  
Respondent :

**DECISION APPROVING SETTLEMENT**

**Before: Judge Manning**

This case is before me upon a petition for assessment of a civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. ' 801 et seq. (the "Act"). Petitioner filed a motion to approve settlement and order payment of an amended penalty. A reduction in penalty from \$6,700.00 to \$4,690.00 for one section 104(d)(1) citation and seven section 104(d)(1) orders is proposed. The motion states that the original proposed penalty was specially assessed under 30 C.F.R. ' 100.5 and that Respondent has a history of no violations during the previous 24 months.

I have considered the representations and documentation submitted in this case, and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act.

Accordingly, the motion for approval of settlement is **GRANTED**, and Respondent is **ORDERED TO PAY** the Secretary of Labor the sum of \$4,690.00 within 90 days of the date of this decision.

Richard W. Manning  
Administrative Law Judge

Distribution:

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RWM