

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

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March 20, 2000

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 99-152-M
Petitioner	:	A.C. No. 35-00023-05520
	:	
	:	Docket No. WEST 99-269-M
v.	:	A.C. No. 35-00023-05522
	:	
	:	Docket No. WEST 99-345-M
MOLALLA REDI-MIX AND	:	A.C. No. 35-00023-05523
ROCK PRODUCTS, INC.,	:	
Respondent	:	Docket No. WEST 99-390-M
	:	A.C. No. 35-00023-05524
	:	
	:	Molalla Redi-Mix

**DECISION**

Appearances:           Matthew L. Vadnal, Esq., Office of the Solicitor, U.S. Department of Labor, Seattle, Washington, and Paul A. Belanger, Conference and Litigation Representative, Mine Safety and Health Administration, Vacaville, California, for Petitioner;  
Douglas Jorgensen, President, MRM, Inc., Molalla, Oregon, for Respondent.

Before:                   Judge Manning

These cases are before me on petitions for assessment of civil penalty filed by the Secretary of Labor, acting through the Mine Safety and Health Administration (“MSHA”), against Molalla Redi-Mix and Rock Products, Inc., (“Molalla”), pursuant to sections 105 and 110 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 815 and 820 (the “Mine Act”). A hearing was held in Portland, Oregon, on February 23, 2000. The stay previously entered in WEST 99-152-M, WEST 99-269-M, and WEST 99-345-M was lifted at that time.

At the start of the hearing, counsel for the Secretary request time for the parties to meet privately because it appeared that they were close to settling all issues. At 9:35 a.m. the hearing reconvened at which time the parties announced that they had indeed settled all issues.

The settlement was read into the record and was confirmed in a joint motion to approve settlement. The terms of the settlement are as follows:

<u>Citation/Order No.</u>	<u>30 C.F.R. §</u>	<u>Penalty</u>
WEST 99-152-M		
4375514	56.14101(a)	\$2,275.00
WEST 99-269-M		
7973084	56.14107(a)	595.00
WEST 99-345-M		
4375503	56.4203	1,365.00
4375512	56.14131(a)	1,365.00
4375517	56.14130(a)	3,640.00
4375520	56.18002(a)	VACATE
7973082	56.12028 & 104(b) of Act	6,335.00
WEST 99-390-M		
7973085	56.14107(a)	360.00
7973087	56.14132(a)	595.00
4375233	56.12001	235.00
4375234	56.12001	235.00
	TOTAL	\$17,000.00

I have considered the representations and documentation submitted at the hearing and in the joint motion. I conclude that the proposed settlement is appropriate under the criteria set forth in section 110(i) of the Act. The parties agree that Molalla may pay the total penalty in eight payments over a period of two years and that in doing so the penalty will not impair its ability to continue in business.

Accordingly, the motion to approve settlement is **GRANTED**; Citation No. 4375520 is **VACATED**; and Molalla Redi-Mix and Rock Products, Inc., is **ORDERED TO PAY** the Secretary of Labor the sum of \$17,000 as follows: \$2,125 shall be paid on or before July 1, 2000, and seven additional payments of \$2,125 each shall be paid on or before the first day of each successive calendar quarter starting on October 1, 2000, until the entire \$17,000 is paid.

Richard W. Manning  
Administrative Law Judge

Distribution:

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