

CCASE:
SOL (MSHA) V. CALIFORNIA LIGHTWEIGHT PUMICE
DDATE:
19900530
TTEXT:

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

CIVIL PENALTY PROCEEDING

Docket No. WEST 89-317-M
A.C. No. 04-04602-05515

v.

Docket No. WEST 89-360-M
A.C. No. 04-04602-05516

CALIFORNIA LIGHTWEIGHT
PUMICE, INC.,
RESPONDENT

Docket No. WEST 89-394-M
A.C. No. 04-04602-05520

Docket No. WEST 90-21-M
A.C. No. 04-04602-05521

Battle Mountain

AMENDED DECISION

Appearances: Nancy E. Resnick, Esq., Office of the Solicitor,
U.S. Department of Labor, San Francisco,
California,
for Petitioner;
Mr. L. Kenneth Teel, President, California Light-
weight Pumice, Inc., Capistrano Beach, California,
for Respondent.

Before: Judge Morris

The Secretary of Labor, on behalf of the Mine Safety and Health Administration (MSHA), charges respondent with violating safety regulations promulgated under the Federal Mine Safety and Health Act, 30 U.S.C. 801, et seq. (the Act).

After notice to the parties, a hearing commenced in Las Vegas, Nevada, on January 9, 1990. The cases involved in the hearings were Docket Nos. WEST 89-317-M, WEST 89-360-M, and WEST 89-394-M.

At the close of the hearing, respondent requested that it be permitted to present evidence as to its financial condition. In view of respondent's request, the hearing was reset to April 10, 1990. Subsequently, Docket No. WEST 90-21-M, a newly assigned case, was also set for a hearing on said date.

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Prior to the hearing, the parties reached an amicable settlement. Under the terms of the settlement agreement, respondent agrees to pay the penalties originally assessed by the Secretary. The citations and the original assessments are as follows:

Docket No. WEST 89-317-M

Citation No.	Assessments
3286884	\$ 84.00
3069863	300.00
3069864	500.00
3069865	400.00
3069866	300.00
TOTAL	\$1,584.00

Docket No. WEST 89-360-M

3286892	\$ 450.00
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Docket No. WEST 89-394-M

3463508	\$ 500.00
3463509	46.00
3463510	20.00
3463511	150.00
3463512	400.00
3463513	400.00
TOTAL	\$1,516.00

Docket No. WEST 90-21-M

3463959	\$ 600.00
3462890	600.00
3462891	68.00
3462893	50.00
3443076	500.00
3443783	400.00
TOTAL	\$2,218.00

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In support of their motion to approve the settlement, the parties have submitted information relating to the statutory criteria for assessing penalties as contained in 30 U.S.C. 820(i).

I have reviewed the proposed settlement and I find it is reasonable and in the public interest. It should be approved.

Accordingly, I enter the following:

ORDER

1. The settlement agreement is approved.
2. The foregoing citations and proposed penalties are affirmed.
3. Respondent is ordered to pay to the Secretary the sum of \$5,768.00 within 60 days of the date of this amended decision.

John J. Morris
Administrative Law Judge