

CCASE:  
SOL (MSHA) V. SPECCIALTY SAND  
DDATE:  
19850227  
TTEXT:

Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No: CENT 84-26-M  
A.O. No: 41-01472-05503

v.

Deweyville Dredge & Plant

SPECIALTY SAND COMPANY, INC.,  
RESPONDENT

DECISION

Appearances: Robert A. Fitz, Esq., Office of the Solicitor,  
U.S. Department of Labor, Dallas, Texas,  
for Petitioner;  
Mr. W.A. Keckley, President, Specialty Sand  
Company, Houston, Texas, for Respondent

Before: Judge Moore

At the commencement of the hearing the attorney for the Mine Safety and Health Administration announced that the parties had agreed to a settlement of the case. He and Mr. Keckley for Respondent explained on the record why a settlement had not been reached until the morning of the trial. Mr. Keckley misunderstood the Notice of Hearing and thought he would be appearing at a conference or meeting. In the Solicitor's office the matter had been handled by two different attorneys and there was probably a communication problem. At any rate, the government was of the opinion that the negligence factor was not so high as it originally thought. The government introduced government Exhibit 2 which shows that during a two-year period respondent had only 15 citations issued to it and all of them were non-S & S.

After listening to a brief description of the evidence as found the day after the accident, I agreed to a settlement in the amount of \$2,850. The original assessment was \$3,800.

Respondent is accordingly ORDERED to pay to MSHA, within 30 days, a civil penalty in the amount of \$2,850.

Charles C. Moore, Jr.  
Administrative Law Judge