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SOL (MSHA) V. KAISER CEMENT AND GYPSUM
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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. DENV 79-244-PM
A.O. No. 04-04075-05001

v.

Permanente Cement Plant

KAISER CEMENT AND GYPSUM CORPORATION,
RESPONDENT

DECISION

Appearances: Donald F. Rector, Attorney, Office of the Regional
Solicitor, U.S. Department of Labor, San Francisco,
California, for the petitioner Coraltha O. Lewis,
Esquire, Oakland, California, for the respondent

Before: Judge Koutras

Statement of the Case

This proceeding concerns a petition for assessment of civil penalty filed by the petitioner on January 26, 1979, pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking civil penalty assessments in the amount of \$60.00 for an alleged violation of 30 CFR 56.14-6, and \$8.00 for an alleged violation of 30 CFR 56.11-1. The violations were cited in Citations 374802 and 374803 issued by an MSHA mine inspector on March 23 and 28, 1978.

Respondent filed an answer to the petition on February 26, 1979, contesting the citations and requesting a hearing. A hearing was scheduled for San Francisco, California, on June 27, 1979, and the parties subsequently filed a joint motion to approve a proposed settlement and disposition of the matter.

Discussion

With regard to Citation No. 374803, petitioner moves to dismiss the citation on the grounds that it cannot establish a violation of the cited standard. The motion is granted and the petition for assessment of civil penalty with respect to that citation was dismissed.

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As for Citation No. 374802, the parties stated that respondent wishes to withdraw its contest and to pay the civil penalty initially assessed at \$60.00 for a violation of 30 CFR 56.14-6. In support of the joint motion, the parties assert that the proposed settlement is reasonable and that the proposed disposition of the matter is in the public interest and will further the intent and purpose of the Act.

After review of the proposed settlement presented by the parties, I find that the proposed disposition of this case is consistent with the Act and it is approved.

Order

Citation No. 374803 is dismissed. Respondent is ordered to pay a civil penalty in the amount of \$60.00 in satisfaction of Citation No. 374802 within thirty (30) days of the date of this decision and order. Upon receipt of payment by the petitioner, the matter is dismissed.

George A. Koutras
Administrative Law Judge