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SOL V. MARBLEHEAD LIME
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,
PETITIONER

Civil Penalty Proceeding

v.

Docket No. PENN 79-36-M
AC No. 36-00238-05008F

MARBLEHEAD LIME COMPANY,
RESPONDENT

Pleasant Gap Mill

DECISION AND ORDER APPROVING SETTLEMENT

On December 26, 1979, the Solicitor filed a motion for decision and order approving settlement of this case. This case involves one charge of violation of safety and health standards initially assessed by MSHA for \$7000.00. The parties requested approval of a settlement as follows:

Citation No. 303938 alleged a violation of 30 CFR 57.14-20 (failure to block machinery against motion while performing repairs or maintenance). The parties moved for approval of a settlement in the amount of \$3600.00 whereas the initial assessment was for \$7000.00. In support of the motion it is stated that "The operator's negligence was over assessed." Although this citation resulted from a fatal accident where a repairman mechanic was crushed against a work bench by a front end loader, the operator "believed that motion was necessary to make adjustments during the installation of axles" and "This procedure was also used at the repair facilities of several other area companies."

Having duly considered the matter, I conclude that the recommended settlement is consistent with the purposes and policy of the Act. The recommended settlement is, therefore, approved.

Accordingly, it is ORDERED that the motion for decision and order approving settlement is GRANTED. It is FURTHER ORDERED that the operator pay \$3600.00 and that subject to such payment the petition be DISMISSED.

James A. Laurenson Judge