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SOL (MSHA) V. MISSOURI GRAVEL
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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. LAKE 80-15-M
A.O. No. 11-00132-05005

v.

Plant No. 6
Florence Quarry & Mill

MISSOURI GRAVEL COMPANY,
RESPONDENT

DECISION AND ORDER

These seven allegedly nonserious, low negligence violations were initially assessed at \$536.00. It is now proposed to reduce the assessment to \$522.00.

Based on an independent evaluation and de novo review of the information furnished, I conclude that six of the seven violations should be settled at the amounts proposed. The seventh violation involves a failure to provide an audible backup alarm on a caterpillar tractor operating in an area where personnel were working or traveling. The potential for a fatal or seriously disabling injury was therefore real and not remote or speculative. For these reasons, I find the amount proposed for settlement, \$72.00, is unacceptable and should be increased to \$100.00.(FOOTNOTE 1)

Accordingly, it is ORDERED that to the extent indicated the motion to approve settlement be, and hereby, is GRANTED. It is FURTHER ORDERED

~1125

that on or before Friday, June 13, 1980, the operator pay a penalty of \$550.00 in settlement of these matters and that subject to payment the captioned proposal for penalty be DISMISSED.

Joseph B. Kennedy
Administrative Law Judge

~FOOTNOTE 1

The findings in this Decision and Order are based on the information submitted in support of the parties' motion. The penalties found warranted constitute an exercise of the predictive, discretionary power conferred by Congress under section 110(i), (k) of the Act to assess penalties designed to deter future violations and insure voluntary compliance. Should the disposition proposed be unacceptable, the parties may request a settlement conference or evidentiary hearing.