

CCASE:

SOL (MSHA) V. VULCAN MATERIALS

DDATE:

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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. SE 84-7-M
A.C. No. 09-00067-05503

v.

Kennesaw Quarry and Plant

VULCAN MATERIALS COMPANY -
SOUTHEAST DIVISION,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The parties have filed a motion to approve settlement in the above-captioned proceeding. The parties propose to settle the two citations at issue in this case for the original assessments total of \$4,000.

Citation No. 2243958 was issued for a violation of 30 C.F.R. 56.12-25 because the emergency stop switch for a conveyor belt was not frame-grounded. A miner was electrocuted when he grasped the actuating lever of the emergency stop switch. The accident was caused by an electrical fault at the stop switch which occurred due to strain and flexing of the conductors entering the switch housing. The single bolt securing the switch to the wall was not sufficient to prevent movement of the switch when the cord was pulled. Consequently, the cable pulled out of the strain clamp and the bare or damaged conductors contacted the switch frame. The parties advise that negligence was low because the status of the grounding was not visually apparent and had not been detected despite previous diligent inspections by the operator. The violation was abated in good faith. The mine is medium in size and the operator is large. There is no history of prior violations of the cited standard. Payment of the penalty will have no significant effect on the operator's ability to remain in business. The parties propose to settle this citation for the original assessment of \$3,000.

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Citation No. 2243959 was issued for a violation of 30 C.F.R. 56.12-2 because the emergency stop switch for a conveyor belt was not properly mounted. The violation contributed to the fatality described above. The parties advise that negligence was low. The remainder of the statutory criteria set forth in section 110(i) of the Act are as described above. The parties propose to settle this citation for the original assessment of \$1,000.

I have very carefully reviewed the settlement motion and supporting materials. Although the violations are exceptionally grave, I note the low degree of negligence and absence of prior violations of the cited standards. Inasmuch as both assessments are substantial amounts, I conclude the recommended settlements are appropriate in this case. The recommended settlements are therefore, approved.

ORDER

The operator is ORDERED to pay \$4,000 within 30 days from the date of this decision.

Paul Merlin
Chief Administrative Law Judge