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SOL (MSHA) V. SOUTHWESTERN PORTLAND CEMENT
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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. WEST 85-64-M
A.C. No. 04-04230-05506

v.

Quarry-Quarry Plant

SOUTHWESTERN PORTLAND CEMENT
COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a motion to approve settlements of the three violations involved in this matter. The original assessments totaled \$1,800, and the proposed settlements total \$600.

Citation No. 2364967 was issued for a violation of 30 C.F.R. 56.14Å1 when an inspector observed that the clinker belt conveyor tail pulley was not guarded. The original assessment for this violation was \$600, and the proposed settlement is \$200. The original assessment was based on the operator's failure to abate the violation which had been previously reported to management by the company's safety department. The Solicitor advises however, that the violation itself was of low gravity and that the operator which is large has an exceptionally small prior history of violations. Also the proposed settlement is almost twice as much as would have been assessed under the regular formula. I accept the Solicitor's representations and approve the proposed settlement. However, a failure to abate promptly is a matter for concern and the operator should take steps to see this does not happen again because if it does, I will not accept such a settlement from the Solicitor regarding this operator.

Citation Nos. 2364968 and 2364969 were issued for violations of 30 C.F.R. 56.9Å7 and 30 C.F.R. 56.11Å12, respectively. An inspector observed lack of an emergency stop cord on the clinker belt and unguarded openings at the tail pulley area of the belt. The Solicitor advises that the same considerations already set forth apply here as well. Accordingly, I approve the proposed settlements of \$200 for each of these violations.

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Accordingly, the operator is ORDERED TO PAY \$600 within 30 days of the date of this decision.

Paul Merlin
Chief Administrative Law Judge