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SOL (MSHA) V. KAISER 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 84-71-M
A.C. 04-00157-05507

v.

Cushenbury Cement Plant

KAISER CEMENT CORPORATION,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Lasher

Upon Petitioner's motion for approval of a proposed settlement, and the same appearing proper and in the full amount of the initial assessment as to 3 of the 4 violations involved, the settlement is approved.

The terms of the settlement are as follows:

Citation	Date	Health and Safety Standard Violated	Original Proposed Penalty	Settlement Amount
2245606	11/17/83	56.6Ä113	\$2,000	\$2,000
2245607	11/17/83	56.6Ä117	2,000	2,000
2245608	11/17/83	56.6Ä161	1,000	650
2245609	11/17/83	56.5Ä112	100	100
Total			\$5,100	\$4,750

In the premises, approval of the settlement is warranted.

The documentary record in this matter reflects that while the violations were promptly abated by Respondent, they resulted from a high degree of negligence and were of a high degree of gravity since an injury resulted from the improper blasting procedures practiced.

The reduction in the penalty originally proposed by the Secretary with respect to Citation No. 2245608 appears justified since it is but one of the four infractions charged arising from the same incident and since a question of proof exists as to such violation as charged.

In the 24 months preceding the violation, no alleged violations were assessed against the Respondent at the facility involved.

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The size of the Respondent, a large mine operator, is approximately 2,025,808 man-hours per year. The size of the subject facility is approximately 550,000 man-hours per year.

The ability of the Respondent to continue in business will not be impaired by the payment of the settlement amounts specified.

In the premises, approval of the settlement is warranted.

Respondent, if it has not previously done so, is ordered to pay to the Secretary of Labor within 30 days from the date hereof the sum of \$4,750.00.

Michael A. Lasher, Jr.
Administrative Law Judge