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SOL (MSHA) V. BLUE CIRCLE
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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. SE 86-52-M
A.C. No. 01-00629-05509

v.

Roberta Cement Plant

BLUE CIRCLE INCORPORATED,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Broderick

On September 5 and September 11, 1986 the parties submitted a motion for approval of a settlement reached by the parties in this case. The violations were originally assessed at \$4000 and the parties propose to settle for \$1600.

Two violations are involved in this proceeding, both cited following an investigation of a fatal accident on October 8, 1985 when an employee was struck by a piece of liner plate which fell approximately 40 feet from a work platform. The operator was cited for failing to provide toe boards on the work platform (30 C.F.R. 56.11027), and failing to keep the platform clean and orderly (30 C.F.R. 56.20003(a)). The motion states that the Secretary cannot establish that the toeboards would have prevented the accident. The work being performed was performed on an infrequent basis, and toeboards had been installed in other areas of the plant. The motion states that the failure to install them on the work platform involved here was apparently an oversight. Respondent implements annual safety training for its employees, and the employees involved had received safety training. The accident resulted in part from employees not implementing Respondent's procedures and safety rules. The violations were promptly abated.

I have considered the motion in the light of the criteria in section 110(i) of the Act, and conclude that it should be approved.

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Accordingly, the settlement is APPROVED and Respondent is ORDERED TO PAY the sum of \$1600 within 30 days of the date of this order.

James A. Broderick
Administrative Law Judge