

CCASE:
SOL (MSHA) V. F & E ERECTION
DDATE:
19880705
TTEXT:

~887

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

v.

F & E ERECTION COMPANY, INC.,
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. CENT 87-53-M
A.C. No. 41-00022-05501 B96

Dallas Quarry & Plant

DECISION

Appearances: Rebecca A. Siegel, Esq., Office of the Solicitor,
Department of Labor, Dallas, Texas, for the Secretary;
Michael Black, Esq., Burns and O'Gorman, San Antonio,
Texas, for Respondent

Before: Judge Weisberger

Statement of the Case

In a telephone conference call initiated by the undersigned with Counsel for both Parties on November 27, 1987, to determine the status of the case, it was indicated that Counsel were discussing a possible settlement of the case. On March 1, 1988, the Parties submitted a joint Motion to Approve a Settlement Agreement proposing a reduction in penalties from \$8,000 to \$3,000. It was determined that the Motion, and accompanying documents, did not contain sufficient information to allow approval of the settlement. A hearing was scheduled for April 12, 1988, in San Antonio, Texas, to allow the Parties to present evidence in support of the Motion to Approve Settlement. On April 12, 1988, the case was adjourned due to the sudden death that morning of Respondent's Superintendent Steven Harless.

Subsequent to notice a hearing was held on May 19, 1988, on the Motion to Approve Settlement. I have considered the representations, documentation, and testimony submitted in this case, and I conclude that the proffered settlement is appropriate under the criteria set forth in section 110(i) of the Act.

~888

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that Respondent pay a penalty of \$3,000 within 30 days of this order.

Avram Weisberger
Administrative Law Judge