

CCASE:
SOL (MSHA) V. JOLIET SAND AND GRAVEL
DDATE:
19890524
TTEXT:

~920

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

CIVIL PENALTY PROCEEDING

Docket No. LAKE 88-138-M
A.C. No. 11-02349-05505

v.

Rockdale Quarry

JOLIET SAND AND GRAVEL COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Maurer

On May 18, 1989, the Secretary of Labor on behalf of the parties to this action, filed a motion to approve the settlement negotiated between them. At issue in this case are two violations, originally assessed at \$4000 in the aggregate. Settlement is proposed at \$2900.

The above-referenced violations were discovered as a result of an investigation into a fatal accident which occurred on May 17, 1988, killing a crushing machine operator at the mine. More particularly, the operator was cited for a violation of 30 C.F.R.

56.11001 because safe access had not been provided to the controls of the Stanley rock breaker at the jaw crusher. The fatality occurred because the machine operator attempted to climb up to the controls, slipped and inadvertently grabbed one of the control levers. This swung the hammer around, struck another workman on the head and pinned the machine operator against a metal guard and killed him.

The operator was also cited for a violation of 30 C.F.R. 56.14026 because the machine was not provided with a start and stop electrical control on the boom. This violation is significant and substantial because the fatality occurred when the machine operator could not stop the swing hammer.

I accept the parties' representations and approve the settlement.

ORDER

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that respondent pay a penalty of \$2900 within 30 days of this order.

Roy J. Maurer
Administrative Law Judge