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MSHA V. MEDUSA CEMENT  
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
WASHINGTON, D.C.  
October 30, 1990

SECRETARY OF LABOR  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA)

v. Docket No. SE 89-109-M

MEDUSA CEMENT COMPANY-DIVISION  
MEDUSA CORPORATION

BEFORE: Backley, Acting Chairman; Doyle and Nelson, Commissioners

ORDER

BY THE COMMISSION:

In this civil penalty proceeding arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (1988)("Mine Act"), counsels for the Secretary of Labor and Medusa Cement Company ("Medusa") have filed with the Commission a Joint Motion to Approve Settlement. For the following reasons, the parties' settlement approval motion is granted, and this matter is dismissed.

On January 23, 1990, we granted Medusa's petition for discretionary review of a decision of Commission Administrative Law Judge Roy J. Maurer, concluding that Medusa violated 30 C.F.R. 56.14211(d). 11 FMSHRC 2531, 2533 (December 1989). On October 25, 1990, the Secretary and Medusa filed the Joint Motion to Approve Settlement.

In their motion, the parties explain that Citation No. 2857907, which is the subject of this action, was issued to Medusa because a work platform used by Medusa to hoist personnel was attached to a load line rather than to the crane boom itself. Medusa has raised a question concerning the proper interpretation of section 56.14211(d) and whether its cited conduct violated the standard. The parties note that on September 5, 1990, the

Department of Labor's Mine Safety and Health Administration ("MSHA") issued a Program Policy Letter superseding its prior policy pertaining to section 56.14211(d). The Policy Letter provides that operators are permitted to hoist personnel with cranes using a load line to support a work platform and comply with section 56.14211(d) if four safety features detailed in the policy letter are

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implemented. The citation involved here was not issued because of a failure to implement the four safety features and the parties state that the record does not reflect whether these safety features were present on Medusa's crane at the time of the inspection. In their joint motion, the Secretary and Medusa request approval of their settlement, including vacation of the citation and assessed penalty, vacation of the Commission's direction for review, and dismissal of the proceeding.

Oversight of proposed settlements of contested cases is an important aspect of the Commission's adjudicative responsibilities under the Mine Act (30 U.S.C. § 820(k)) and is, in general, committed to the Commission's sound discretion. See, e.g., *Pontiki Coal Corp.*, 8 FMSHRC 668, 674-675 (May 1986). The Commission has granted motions to vacate citations and orders and to dismiss review proceedings if "adequate reasons" to do so are present. E.g., *Southern Ohio Coal Co.*, 10 FMSHRC 1669, 1670 (December 1988), and authorities cited ("*SOCCO*").

We conclude that adequate reasons exist to grant the parties' motion in this case. As the prosecutor charged with enforcement of the Act, the Secretary has determined that she should seek dismissal of this proceeding. The operator joins in the motion. No reason appears on this record to warrant denial of the motion before us. See, e.g., *Morgan Corp.*, 12 FMSHRC 394, 395 (March 1990).

Therefore, upon full consideration of the motion, it is granted. Medusa's petition for review is dismissed. The underlying citation and the assessed civil penalty are vacated. Our direction for review is also vacated and this proceeding is dismissed.

Richard V. Backley, Acting Chairman

Joyce A. Doyle, Commissioner

L. Clair Nelson, Commissioner