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SOL (MSHA) v. CARGILL INC.
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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
v.
CARGILL, INCORPORATED,
RESPONDENT

Civil Penalty Proceeding
Docket No. CENT 81-111-M
A.O. No. 16-00246-05019F
Belle Isle Mine

DECISION AND ORDER APPROVING SETTLEMENT

Statement of the Case

This is a civil penalty proceeding initiated by the petitioner against the respondent through the filing of a proposal for assessment of a civil penalty pursuant to section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a), seeking a civil penalty assessment for 14 alleged violations of mandatory safety standards.

Respondent tiled a timely answer and the matter was scheduled for hearing in Franklin, Louisiana on October 6, 1981. However, by motion filed September 14, 1981, petitioner seeks approval of a proposed settlement negotiated by the parties. The citations, initial assessments, and the proposed settlement amounts are as follows:

Citation No.	Date	30 CFR Standard	Assessment	Settlement
082224	5/1/80	57.4-51	\$ 6,000	\$ 2,000
082226	5/1/80	57.20-30	8,000	3,000
0565746	5/1/80	57.5-2	8,000	8,000
0566594	5/1/80	57.12-3	2,500	2,500
0566596	5/1/80	57.12-3	5,000	5,000
0566597	5/1/80	57.12-3	5,000	3,000
0566598	5/1/80	57.12-3	6,500	3,000
0566599	5/1/80	57.12-3	5,500	3,000
0566600	5/1/80	57.12-3	6,000	3,000
0566601	5/1/80	57.12-18	6,000	2,000
0566605	5/1/80	57.12-3	5,500	3,000
0566606	5/1/80	57.12-30	5,000	5,000
0566607	5/1/80	57.12-8	300	300
0566609	5/1/80	57.12-30	8,000	8,000
			\$ 77,300	\$ 50,800

Discussion

The citations in this matter arise out of an investigation by MSHA of a mine explosion that occurred at the Belle Isle Mine operated by Cargill, Inc., near Franklin, St. Mary Parish, Louisiana, on June 8, 1979. At the time of the explosion, 22 persons were in the mine, seventeen of the miners were rescued and five died as a result of the explosion.

Pursuant to an investigation, the Secretary issued 90 citations together with its final report on May 1, 1980. Of these citations, 76 were settled at the conference level for a total of \$29,233. Pursuant to settlement negotiations, respondent offered a \$50,800 penalty payment for the remaining 14 citations. Petitioner's settlement proposal has taken this amount offered by respondent and allocated it among the various citations. Petitioner states that its allocations have been approved by the inspectors who issued the original citations.

Petitioner points out that seven citations were issued for a violation of 30 CFR 57.12-3, and two of these citations have been settled for the full amount of the assessment. The remaining citations have been allocated penalties of \$3,000 each. Petitioner points out that each violation involved a similar electrical condition, i.e., the cables were not protected against overcurrents caused by short-circuits or overloads. The gravity is extremely high because as petitioner asserts, each violation could have been the ignition source which caused the explosion. The reduced penalty reflects respondent's argument that overload protection was provided for the trailing cables while confirming MSHA's authority to issue a citation for each occurrence of a violation.

Citation 082224 alleged that a fire alarm system was not provided to warn all underground employees. Petitioner asserts that an assessment of \$2,000 is appropriate for this citation because of the respondent's exceptional good faith abatement. By installing an extensive audio and visual system, respondent has substantially improved the safety conditions which existed prior to the disaster.

Citation No. 082226 was issued because the inspector found that on June 8, 1979, the men had not been removed from the area where blasting was taking place even though on numerous occasions dangerous accumulations of flammable gas had been encountered through the mine. Petitioner asserts that since primary and bench blasting is now done with miners out of the mine, a \$3,000 settlement is appropriate.

Citation No. 0566601 alleged that certain circuit equipment was not appropriately labeled to indicate the location of the circuits they were supplying. Petitioner states that a \$2,000 penalty is appropriate since this condition did not contribute to the explosion.

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The remaining four citations were allocated an amount equal to their original assessment. In further support of its settlement motion, petitioner has submitted respondent's history of prior violations and asserts that the proposed settlement is a reasonable and adequate resolution of the citations and penalties in issue.

Conclusion

After careful review and consideration of the pleadings, arguments and information of record in support of the motion to approve the proposed settlement, I conclude and find that is reasonable and in the public interest. Accordingly, pursuant to 29 C.F.R. 2700.30, the motion is GRANTED and the settlement is APPROVED.

ORDER

Respondent IS ORDERED to pay civil penalties in the settlement amounts above in satisfaction of the citations in question within thirty (30) days of the date of this decision and order, and upon receipt of payment by the petitioner, this proceeding is DISMISSED.

George A. Koutras
Administrative Law Judge