CCASE:

SOL (MSHA) V. STANDARD METALS

DDATE: 19850104 TTEXT: Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR, CIVIL PENALTY PROCEEDINGS

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA),

TRATION (MSHA), Docket No. WEST 83-56-M
PETITIONER A.C. No. 05-00417-05508

Docket No. WEST 83-116-M A.C. No. 05-00417-05512

V. Docket No. WEST 84-18-M

A.C. No. 05-00417-05513

Docket No. WEST 84-60-M A.C. No. 05-00417-05518

STANDARD METALS CORPORATION, Docket No. WEST 84-79-M
RESPONDENT A.C. No. 05-00417-05523

Sunnyside Mine

DECISION

Appearances: James H. Barkley, Esq., Office of the Solicitor,

U.S. Department of Labor, Denver, Colorado,

for Petitioner;

Zach C. Miller, Esq., Davis, Graham & Stubbs,

Denver, Colorado, for Respondent.

Before: Judge Carlson

Each of the docket numbers listed in the caption was originally scheduled for hearing sequentially, commencing October 31, 1984, at Denver, Colorado. When the first case was called for hearing, however, the parties announced that all issues in the five docket numbers involved in this proceeding were settled.(footnote 1) The settled cases were therefore consolidated and the parties placed the terms of the settlements upon the record.

Docket No. WEST 83Ä56ÄM involved two citations which arose from a heavy equipment accident. The Secretary agreed to dismiss Citation No. 2096842 for lack of sufficient evidence. The respondent agreed to withdraw its notice of contest to Citation No. 2096841, and to pay the full civil penalty of \$1,000.00 originally sought by the Secretary.

Docket No. WEST 83Ä116ÄM involved a single citation arising out of a use of smoking materials near explosives. The respondent agreed to withdraw its notice of contest and to pay the full civil penalty of \$600.00 originally sought by the Secretary.

Docket No. WEST 84Ä18ÄM involved a single citation relating to a defective hoist. The respondent agreed to withdraw its notice of contest and to pay the full civil penalty of \$2,000.00 originally sought by the Secretary.

Docket No. WEST 84Ä60ÄM involved two citations arising from travelway falling hazards (Citations No. 2096626 and No. 2096628). The respondent agreed to withdraw its notice of contest to both, and to pay the full civil penalties of \$36.00 originally sought by the Secretary for each.

Docket No. WEST 84Ä79ÄM involved a single citation relating to a lack of safe access to a workplace. The respondent agreed to withdraw its notice of contest and to pay the full civil penalty of \$2,000.00 originally sought by the Secretary.

I conclude that the terms of the agreement are in accord with the purposes of the Federal Mine Safety and Health Act of 1977 and should therefore be approved.

Accordingly, all citations embraced in the five docket numbers are ORDERED affirmed except for Citation No. 2096842 in Docket No. WEST 83Ä56ÄM, which is dismissed with prejudice.

Further, respondent is ORDERED to pay, within 40 days of the date of this decision, a total \$5,672.00 for those citations which are affirmed.

John A. Carlson Administrative Law Judge

~Footnote_one

1 Two other cases set for the same time were not settled; they proceeded to hearings on the merits, and are not dealt with in this decision.