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SOL (MSHA) V. CAROLINA STALITE
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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.

CAROLINA STALITE COMPANY,
RESPONDENT

CIVIL PENALTY PROCEEDINGS

Docket No. SE 80-21-M
A.O. No. 31-00136-05001 I

Docket No. SE 80-61-M
A.O. No. 31-00136-05015

Docket No. SE 80-73-M
A.O. No. 31-00136-05016

Docket No. SE 80-79-M
A.O. No. 31-00136-05017

Docket No. 81-6-M
A.O. No. 31-00136-05018

Stalite Mill

DECISION APPROVING SETTLEMENT

Before: Judge Lasher

The parties have reached a settlement of the nine violations involved in these five dockets in the total sum of \$2000.00. MSHA's initial assessment therefor was \$2587.00.

The terms of the settlement are as follows:

Citation No.	Original Assessment	Settlement
SE 80-21-M		
00104454	\$1,200	\$ 920
SE 80-61-M		
00104519	\$150	\$ 115

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Citation No.	Original Assessment	Settlement
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SE 80-73-M

00105537	\$ 210	\$ 165
00105538	210	165
00110905	195	150
00110906	122	90

SE 80-29-M

00105539	\$ 160	\$ 130
00110904	180	140

SE 81-6-M

00105507	\$ 160	\$ 125
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The settlement appears reasonable and is approved. It should be initially noted that no fatalities resulted from any violation and that Respondent apparently abated the violative conditions in good faith and timely fashion after notification thereof. Also, at the time of issuance of the citations Respondent, according to the parties, was a "moderate-sized" operator employing approximately 48 employees for 118,000 manhours per year in milling light-weight aggregate. The joint motion submitted by the parties indicates inter alia that:

1. Citation No. 00104454 involved an accident in which a crushing plant laborer who was not wearing a safety belt and line allegedly fell 40 feet from the edge of a silo. Instead of a safety belt, the miner had wrapped a rope around his body. However, the fall actually was not 40 feet because the crushed stalite material slopped up toward the top of the silo and the miner received only minor injuries and was immediately pulled out of the silo. The agreed-on penalty of \$920 is found appropriate.

2. Citation No. 00104519 was issued for a violation of 30 C.F.R. 56.17-1. The inspector did not consider the light sufficient at the stairs going up to the preheaters and at the stockpile area. A proposed penalty reduction from \$150 to \$115 is found appropriate since the MSHA inspector considered the possibility of an accident occurring as "improbable," and because MSHA agrees that the Respondent should be given "good faith abatement" credit for immediately ordering and installing additional lighting.

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3. Citation No. 00105537, involving a violation of 30 C.F.R. 56.14-6, was issued because the guard on the tailpulley and the idlers on the No. 3 raw material conveyor were left open. According to the Solicitor, the mine operator checks this area daily and would testify (1) that it was not aware that the guard had been left open and (2) that it was not in that position when Respondent checked the area earlier on the day in question. Upon notification, Respondent immediately closed the guard. The agreed-on penalty of \$165.00 is approved.

4. Citation No. 00105538 (30 C.F.R. 56.14-7) was issued because the tailpulley guard of the yellow discharge belt was not properly maintained in that the back portion of the guard had been bent, partially exposing a pinch point. According to the Solicitor, (1) this area is not regularly worked by employees, (2) Respondent was not aware that the condition presented any hazard, and (3) Respondent would testify that it believed the guard to be adequate. The proposed penalty of \$165 is found appropriate. It also appears that immediately upon notification of the violation, Respondent bent the guard back into position.

5. Citation No. 00110905 was issued for a violation of 30 C.F.R. 56.9-37. A 930 Cat Loader was left unattended on a 5% grade without emergency brakes or wheels turned into a bank. The parties propose a penalty of \$150 which is approved. Respondent contends that it was not aware of the violative condition and that such practice violated company policy. During an inspection the loader operator apparently left the loader to get a drink of water.

6. Citation No. 00110906 was issued for a violation of 30 C.F.R. 56.15-3 when a maintenance man was handling heavy metal objects without wearing protective footwear. The maintenance man had safety shoes but was not wearing them on the day in question. Respondent was not aware of the condition and company policy required the wearing of safety shoes. The agreed-on penalty of \$90.00 is reasonable and approved.

7. Citation No. 00105539, for violation of 30 C.F.R. 56.20-3, was issued because the elevated walkway was not kept clean. A 8" to 10" build-up of material occurred. The walkway had handrails, and at the time of the inspection, Respondent was in the process of replacing the grates on the walkway to allow the material to pass more easily. Upon notification, Respondent immediately cleared the material from the walkway, thereby achieving prompt abatement. The reduction of \$30.00 from the proposed penalty appears warranted and a penalty of \$130.00 is approved.

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8. Citation No. 00110904, for a violation of 30 C.F.R. 56.20-813, was issued because the toilet facilities were not kept clean and sanitary. A penalty of \$140 for this violation is reasonable and approved since, upon notification of the violation, the toilet facility was cleaned and Respondent assigned an employee to the job on a regular basis.

9. Citation No. 00105507, involving a violation of 30 C.F.R. 56.9-2, was issued because the 930 Cat Loader had no lights and was working in areas with insufficient lighting. Respondent was not aware that the loader was being used at night since another loader with lights was normally worked at night. There was sufficient lighting in the area, and upon notification, the loader was immediately taken out of service by Respondent and new lights installed. The agreed penalty of \$125.00 is approved.

ORDER

Respondent, if it has not previously done so, is ordered to pay \$2000.00 to the Secretary of Labor within 30 days from the date of this decision.

Michael A. Lasher, Jr.
Administrative Law Judge