

ALASKA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD  
P.O. BOX 21149  
JUNEAU, ALASKA 99802

STATE OF ALASKA, )  
DEPARTMENT OF LABOR, )  
 )  
Complainant, )  
 )  
v. )  
 )  
KETCHIKAN PULP COMPANY, )  
 )  
Contestant. )

Docket No. 88-731  
Inspection No. Ca-7806-002A-88

DECISION AND ORDER

I. FACTUAL AND PROCEDURAL BACKGROUND

This matter arises from occupational safety and health citations issued by the State of Alaska, Department of Labor ("the Department") to Ketchikan Pulp Company ("KPC") as a result of a complaint inspection at KPC's pulp mill at Ward Cove near Ketchikan on January 18-19, 1988. The Department's citations specifically relate to KPC's removal of asbestos-containing insulation from pipes connected to Pump 12 in the powerhouse at the Ward Cove pulp mill.

The Department's original citations were issued on March 2, 1988 and consisted of one "willful" citation, three "serious" citations and one "other" citation. Each citation consisted of one or more alleged code violations. Total monetary penalties assessed by the Department amounted to \$13,200.

KPC, through counsel, contested all of the Department's citations in its notice of contest dated March 22, 1988.

On July 14, 1988, the Department amended its citations to add a sixth citation for a "serious" violation with a proposed penalty of \$600.

The Department's formal complaint was issued on August 15, 1988, and KPC's formal answer was filed on August 30, 1988.

After a period of discovery, on January 9, 1989, the Department moved to amend its complaint to change Citations #4 and #6 from "serious" to "willful" and to increase the monetary penalty for each to \$10,000. KPC opposed the motion to amend. On March 15, 1989, the Board granted the Department's motion.

On July 13, 1989, the Department gave notice of its dismissal of Citation #1 and Citation #5, Item #1.

On August 7, 1989, the Department further moved to amend its complaint to change the underlying standard alleged to have been violated in Citation #2, Item #1b and Citation #4, Item #1c. The Board took the motion under advisement.

On August 11, 1989, the Department by letter agreed to stipulate that the asbestos work on Pump 12 qualified as a "small scale/short duration" project under the relevant Alaska asbestos regulations, effectively rendering moot the allegations in Citation #4, Items #1a and #1b.

A formal hearing was held before the Board in Ketchikan on August 16-18, 1989. The Department was represented by Assistant Attorneys General Lisa Fitzpatrick and James Forbes.

KPC was represented by Attorney Laurence Janssen. Evidence was taken in the form of witness testimony, documentary exhibits and the depositions of Eric Markuson and Carl Mangold. The parties made their closing arguments orally and the record was deemed closed at the conclusion of the hearing.

## II. CITATIONS IN CONTEST

Prior to the hearing, the Department filed notice of its dismissal of Citation #1 and Citation #5, Item #1, and further conceded that Citation #4, Items #1a and #1b, were rendered moot by its stipulation that the asbestos work in question was a "small scale/short duration" project. Accordingly, we need not decide the validity of these citations and hereby dismiss them.

In addition, at the hearing KPC withdrew its contest to Citation #3 and Citation #5, Items #2-8. Therefore, these citations are deemed to be affirmed by operation of law and we need not decide their validity either.

We deem the remaining items to be in contest: Citation #2, Items #1a and #1b; Citation #4, Item #1c; and Citation #6, Item #1.

Citation #2, Item #1a, alleges that KPC violated Construction Code 05.045(e)(6)(B)(viii) by failing to designate a properly certified "competent person" to ensure that engineering controls were functioning properly during asbestos removal operations.

Citation #2, Item #1b, as proposed to be amended by the Department, alleges that KPC violated Construction Code 05.045(i)(1) by allowing an asbestos removal worker to cut the sleeves from his protective clothing during the course of asbestos removal operations. Because the Department's proposed amendment of the code provision cited more closely conforms the pleadings to the evidence submitted and does not change the substance of the violation alleged or otherwise prejudice KPC's defense, we will permit the amendment.

Citation #2, Items #1a and #1b were grouped together as a single "serious" violation with a proposed penalty of \$700.

Citation #4, Item #1c, as proposed to be amended by the Department, alleges that KPC violated Construction Code 05.045 (g)(1)(A) by failing to use adequate engineering controls or work practices to reduce the exposure of workers to asbestos fibers to below the permissible exposure limit. Because the Department's proposed amendment more closely conforms the pleadings to the evidence submitted and does not change the substance of the violation alleged or otherwise prejudice KPC's defense, we will also permit the amendment.

Citation #4, Item #1c, was classified as a "willful" violation with a proposed penalty of \$10,000.

Citation #6, Item #1, alleges that KPC violated Construction Code 05.045(e)(6)(D) by failing to comply with the requirements of Appendix G which set forth proper work practices and engineering controls for "small scale/short duration"

asbestos removal operations. Citation #6 was also classified as a "willful" violation with a proposed penalty of \$10,000.

### III. FINDINGS OF FACT

1. Ketchikan Pulp Company owns and operates a pulp mill at Ward Cove near Ketchikan. Power for the mill is supplied by steam turbine-driven boiler feedwater pumps located in the powerhouse. In late 1987, KPC removed one of these pumps, Pump 12, from the basement of the powerhouse for rebuilding and repairs.

2. After Pump 12 had been removed, KPC management issued a work order in December 1987 to remove the insulation from the steam and feedwater lines around the pump. It was assumed that asbestos was present in the insulation although the material was not actually tested for asbestos prior to its removal.

3. The work order was directed to James Eakes, who was the asbestos coordinator for KPC and as such was responsible for the planning and supervision of all asbestos removal operations at the mill. (See KPC Asbestos Abatement Program at pp. 85-87 of Exhibit Binder.)

4. Eakes had been recently hired as asbestos coordinator on or about December 1, 1987. He had no prior experience with asbestos removal and did not receive his asbestos abatement certification from the state until January 28, 1988, after the events at issue took place. Eakes testified that he would have taken the state certification course sooner but that

all available classes were full. In rebuttal, the Department presented evidence that there was space available in certification classes in Fairbanks and Sitka in December 1987. Moreover, at the time of the Pump 12 insulation removal job, KPC had on its staff persons who were experienced, trained and certified in asbestos abatement and could have supervised the Pump 12 job.

5. The asbestos removal work on Pump 12 began on January 8, 1988, and continued on January 13 and 14, 1988. Two KPC employees, Eric Markuson and John Balch, were assigned the task of actually removing the pipe insulation. Both men had completed the state's asbestos abatement certification course and had previous asbestos removal experience. Both men were provided with protective suits and respiratory protection equipment.

6. Prior to the commencement of the asbestos removal work on Pump 12, Eakes had the responsibility of determining how the work would be done. He evidently decided against building a negative-air enclosure surrounding the work area because no enclosures were built. Instead, he directed Markuson and Balch to use glovebags and to wet down the insulation as much as possible before removing it. Balch and Markuson objected that the glovebags were too small to fit around certain oversized and awkwardly configured sections of piping and that a negative-air enclosure was more appropriate. Eakes replied to the effect that building an enclosure would take too long and that they should just do the best they could. No provisions were made to place

plastic sheeting on the floor of the work area, nor was the work area vacuumed with a HEPA-filter vacuum in preparation for the work.

7. Balch and Markuson were upset and concerned about the lack of adequate safety precautions for the removal job and argued with Eakes about appropriate procedures. They felt he was not sufficiently trained or experienced to provide proper asbestos removal supervision. Although there was conflicting testimony about various aspects of the removal project, including the instructions given to the employees prior to the work and their objections to those instructions, on the whole we find the testimony of the employees to be more consistent, credible and persuasive than that of James Eakes and accordingly we give such testimony greater weight. In addition, there was testimony given by various witnesses regarding events taking place after the Pump 12 asbestos removal job; however, we make no findings relating to such testimony nor do we place any reliance on conduct which occurred after the Pump 12 job.

8. On January 13, 1988, as the removal job progressed, Balch and Markuson encountered difficulties using the glovebags on certain sections of the pipe which were too big or awkwardly configured for the bags to go around. (See circled areas on p. 159 of Exhibit Binder.) In addition, there were other sections of pipe that were hot with steam and consequently melted holes in the glovebags, causing some of the bagged insulation material to be released into the air. Since the glovebags could not be used

effectively in these difficult areas, the employees simply wetted down the insulation with spray bottles, ripped it off by hand and put it into disposal bags, an impermissible procedure known as "dry-bagging."

9. To make matters worse, it appears that the wetting-down procedure was successful only at dampening the surface layers of the insulation and that fibers from the drier interior layers of the insulation were likely to have been released into the air during the dry-bagging process. There was also evidence that a number of unprotected employees (pipefitters) were working in the vicinity of the asbestos removal work area and could have been exposed to fibers from the insulation removal. Moreover, the powerhouse consists of three floors with open manlifts between floors and there was testimony that it might have been possible for asbestos fibers to have been carried by thermal currents from the basement level (where Pump 12 was located) to the other floors.

10. During the removal work, both Markuson and Balch wore protective coveralls. At some point in the process, however, Markuson cut the sleeves off his suit to enable him to get his arms into the glovebags more easily. (See photographs 7, 9 and 11 in the Exhibit Binder.)

11. Sometime in the middle of the day on January 13, officials of the pulp mill workers' union were notified of the manner in which the asbestos removal on Pump 12 was being done. Two union representatives, Roger Arriola and Wayne Weihing,



testified that they went to the work area and observed the dry-bagging going on without any protective enclosure. The union immediately lodged a complaint with company management including James Eakes.

12. There was conflicting testimony as to precisely when Eakes first became aware that Markuson and Balch were dry-bagging some of the insulation and whether he in fact had specifically instructed or authorized them to do so. Balch testified that Eakes was present for much of the removal operation, that he was fully aware that glovebags could not be effectively used on the hot and oversized pipe sections, but that he nonetheless authorized them to remove the insulation from those sections without glovebags or an enclosure. (See also Markuson deposition at pp. 8-14.) Both Balch and Markuson testified that Eakes was more concerned about getting the job finished quickly rather than taking appropriate safety precautions like building an enclosure.

13. For his part, Eakes denied instructing the employees to dry-bag the difficult sections of pipe and stated that he only became aware of their doing so near the end of the working day after the union had brought the matter to his attention. Eakes admitted knowing that the dry-bagging procedure was wrong, but maintained that when he became aware of it, the employees were so close to being finished for the day that he felt it was more appropriate to let them finish up and critique them afterwards rather than to stop their work on the spot.

14. Despite the conflict in testimony, it is clear to us that Eakes was fully aware of the dry-bagging while it was still in progress but made no effort to stop it right away or take other immediate safety measures such as enclosing the affected work area or warning other employees who might be working nearby. We also find that Balch and Markuson advised Eakes of the difficulties in using glovebags on certain sections of pipe, and that Eakes either explicitly or implicitly authorized them to remove the insulation by hand where it was not feasible to use glovebags. Further, we find that the evidence establishes that Eakes was aware that Markuson had cut the sleeves off his protective suit but took no immediate action to correct the situation.

15. After a complaint was filed with the Department, compliance officer Charles Cain was dispatched to inspect and investigate the Pump 12 asbestos removal job. He conducted his inspection on January 18-19, 1988. As part of his inspection, he asked Eakes whether he was certified by the state for asbestos abatement work and Eakes replied that he was not. Eakes also admitted to Cain that he had gone into the Pump 12 "regulated area" without being certified and without proper protective equipment as required.

16. KPC contends that the Pump 12 asbestos removal job was essentially a maintenance operation rather than a large-scale asbestos removal project and thus fell within the parameters of Appendix G of the asbestos regulations which govern

"small scale/short duration" asbestos removal work. Even under the Appendix G requirements, however, the evidence establishes that the work area had not been properly vacuumed prior to the work, that plastic sheeting had not been laid on the floor of the work area, that asbestos insulation was removed without glovebags or enclosures, that wet methods alone were inadequate to prevent asbestos fibers from becoming airborne, that a HEPA-filter vacuum was not used to remove any remaining asbestos fibers from the glovebags, and that KPC had no maintenance program or written procedures for the handling of asbestos during "small scale/short duration" projects, for asbestos disposal or for dealing with asbestos-related emergencies.

17. It cannot be conclusively determined whether the permissible exposure limit for asbestos (0.2 fibers per cubic centimeter of air) was exceeded during the dry-bagging work on January 13, 1988, since no air monitoring was conducted by KPC on that day. KPC did conduct personal air monitoring on Balch and Markuson on the following day and contends that such monitoring showed no overexposure to asbestos. The Department, however, challenged the accuracy and reliability of KPC's air testing results and maintained that it was highly probable that asbestos exposure limits had been exceeded during the dry-bagging work on January 13. In this connection we note that several of the citations to which KPC withdrew its contest (and which are thus affirmed) specifically relate to inadequacies in KPC's air monitoring procedures. We believe that KPC's own failure to

conduct proper air monitoring on January 13 is the main reason it cannot be conclusively established that the permissible exposure limit for asbestos was exceeded on that day. On the limited evidence available, however, we find that it is more likely than not that the permissible exposure limit for asbestos was exceeded on January 13, as a direct result of KPC's failure to implement adequate engineering controls and work practices.

18. There was considerable testimony about the feasibility of building a negative-air enclosure around the Pump 12 work area. Eakes testified that he felt glovebags were the best way to perform the asbestos removal but that in hindsight it would have been safer to build an enclosure. Both of the Department's professional witnesses -- compliance officer Cain and consulting industrial hygienist Carl Mangold -- were of the opinion that an enclosure could have been built in view of the time, information and resources available to the company. Based on this testimony, we find that it would have been feasible to build a large enclosure surrounding the entire work area and even if not, we find that KPC easily could have built smaller "mini-enclosures" (as described in Appendix G) to enclose specific problem areas around Pump 12.

19. Industrial hygiene consultant Mangold, who has a lengthy background in the field of asbestos control, was asked by the Department to review the citations issued to KPC and the information gathered in the case. Mangold was of the opinion that regardless whether or not the Pump 12 job qualified as a

"small scale/short duration" project, KPC clearly followed improper procedures by allowing employees to dry-bag insulation material, by not having written procedures governing specific methods of asbestos removal and by permitting one employee to cut the sleeves from his protective suit. It was also his opinion that a full or partial enclosure should have been used. He indicated that KPC's previous asbestos supervisor, Dick Madden, was familiar with the correct procedures for asbestos removal and that the company should not have relied on the judgment of a single untrained and inexperienced person like James Eakes. Dick Madden himself testified that if he had known employees were dry-bagging asbestos material, he would have shut down the job immediately until the proper precautions were taken.

20. This is not the first time KPC has been cited by the Department for serious asbestos-related violations at the pulp mill.<sup>1</sup> In September 1985 KPC was cited for failure to

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<sup>1</sup> The Board is frankly dismayed that the Department neglected to present evidence of previous asbestos-related citations issued to KPC and seemed to be unaware of the rather lengthy history of asbestos citations at the Ward Cove pulp mill. When a willful violation is charged, as here, we believe that evidence of prior similar violations is highly relevant to establish the employer's knowledge and state of mind concerning applicable safety requirements. Such evidence is also relevant to the determination of the proper penalty amount for any violation found.

In this connection, the Board wishes to point out that it would be much easier to determine an employer's previous history of safety and health violations in Alaska if all prior Board decisions were readily available in compiled form. We urge the Department to complete this task so that such information might be available for the benefit of all interested parties.

provide proper respiratory equipment, failure to conduct air monitoring and failure to post warning signs as required. After a hearing, this Board affirmed the citations and found that KPC had failed to take adequate safety measures prior to performing asbestos abatement work. (State v. Ketchikan Pulp Company, OSHRB Docket No. 85-659.)

21. Furthermore, in October 1986 the Department cited KPC for willfully allowing excessive concentrations of asbestos fibers to accumulate at the pulp mill. However, prior to a hearing on the matter, a settlement agreement was reached between the Department and KPC under which KPC agreed to establish a schedule for the removal of all friable asbestos at the pulp mill in compliance with applicable state asbestos regulations. (State v. Ketchikan Pulp Company, OSHRB Docket No. 87-696.) Since that time, KPC by its own admission has completed approximately 291 large asbestos removal projects and approximately 750 small scale removal jobs.

#### IV. CONCLUSIONS OF LAW

1. At all times relevant to this case, Ketchikan Pulp Company was an "employer" within the meaning of applicable Alaska occupational safety and health (OSH) laws and regulations and was subject to the regulatory authority of the Alaska Department of Labor.

2. The insulation removal project at Pump 12 of KPC's Ward Cove pulp mill was subject to, among other things, the provisions of Construction Code 05.045(e)(6). For the purposes

of this case, however, the Department of Labor stipulated that the Pump 12 job qualified as a "small scale/short duration" project under Construction Code 05.045(e)(6)(D), which would effectively exempt the job from the requirements of section (e)(6) as long as the employer complied with the provisions of Appendix G of Subchapter 05 of the Construction Code. However, where the employer fails to comply with the provisions of Appendix G, we conclude that it is no longer exempted from the requirements of section (e)(6) and must comply with any additional requirements in that section.

3. Appendix G provides that certain engineering controls and work practices shall be used in "small scale/short duration" projects to ensure that employee asbestos exposure is maintained at levels below the permissible exposure limit of 0.2 fibers per cubic centimeter of air. These controls and practices include:

- Wet methods (spraying or otherwise dampening the insulation)
- Removal methods (removal of the entire structure including insulation)
- Enclosures (full-size negative-air enclosures of plastic sheeting encompassing the entire work area; mini-enclosures containing specific areas; or use of glovebags)
- Maintenance programs setting forth detailed written procedures covering such matters as preparation of the work area, disposal of asbestos and asbestos-related emergencies

Appendix G describes these controls and work practices in detail.

4. From our review of the evidence in this case, there is no question in our mind that KPC failed to comply with the provisions of Appendix G on the Pump 12 job. The company,

through its asbestos removal supervisor James Eakes, failed to properly prepare the work area, failed to use enclosures or mini-enclosures where the use of glovebags was not feasible on hot or oversized pipes, failed to stop the work immediately upon learning that employees were dry-bagging asbestos material, failed to use HEPA-filter vacuums to remove any asbestos fibers from the glovebags, and failed to implement detailed written procedures for handling asbestos materials, for asbestos disposal and for asbestos-related emergencies. We further conclude that KPC's failure to implement these essential engineering controls and work practices, combined with its failure to conduct proper air monitoring, resulted in a situation where KPC was unable to ensure that employees would not be exposed to asbestos fibers above the permissible exposure limit.

5. With respect to Citation #4, Item #1c, and Citation #6, Item #1, the central issue we must resolve is whether KPC's conduct justifies the classification of those citations as "willful" under AS 18.60.095(a). We note that neither the Alaska OSH statutes, AS 18.60.010 et seq., nor regulations promulgated thereunder, define or explain the scope of "willful" violations. However, the Department's Compliance Manual, which both KPC and the Department relied upon in their arguments, contains the following description of willful violations:

Willful Violations. The following definitions and procedures apply whenever the CO [compliance officer] or IH [industrial hygienist] suspects that a willful violation may exist:



- a. A "willful" violation may exist under the statutes where evidence shows that the employer committed an intentional and knowing violation of the statute, that is, the employer:
- (1) Was aware that a condition is hazardous and did not make a reasonable effort to eliminate the condition;
  - (2) Was aware that the condition violates a standard or other obligation of the statutes; and
  - (3) Was aware of the requirements of the standard or other obligation violated.
- b. It is not necessary that the violation be committed with a bad purpose or an evil intent to be deemed "willful." It is sufficient that the violation was deliberate, voluntary or intentional as distinguished from inadvertent, accidental or ordinarily negligent.
- c. The CO or IH shall carefully develop and record on the DOSH 1B all evidence available that indicates employer awareness of the disregard for statutory obligations or of the hazardous conditions. Willfulness could exist if an employer is advised by employees or employee representatives regarding an alleged hazardous condition and the employer does not make a reasonable effort to verify and correct the condition. Additional factors which can influence a decision as to whether violations are willful include:
- (1) The nature of the employer's business and the knowledge regarding safety and health matters which could reasonably be expected in the industry.
  - (2) The precautions taken by the employer to limit the hazardous conditions.
  - (3) The employer's awareness of the Statute and of the responsibility to provide safe and healthful working conditions.
  - (4) Whether similar violations and/or hazardous conditions have been brought to the attention of the employer.
  - (5) Whether the nature and extent of the violations disclose a purposeful disregard of the employer's responsibility under the Statute.

- d. The determination of whether to issue a citation for a willful or repeated violation will frequently raise difficult issues of law and policy and will require the evaluation of complex factual situations. Accordingly, a citation for a willful violation shall not be issued without consultation with the Deputy Director, who shall, as appropriate, discuss the matter with the legal counsel.

Department of Labor Compliance Manual, Chapter IV, pp. 23-24 (emphasis in original). The Department's definition of willful violations is generally consistent with the approach taken by the federal Occupational Safety and Health Review Commission and the majority of federal circuit courts of appeals. See authorities cited in Rothstein, Occupational Safety and Health Law, § 315 at 312-16 (2nd ed. 1983).

6. Using the above guidelines and authorities as a frame of reference, we conclude that KPC's conduct as alleged in Citations #4 and #6 amounted to a knowing and purposeful disregard of applicable safety and health requirements and thus constitutes a "willful" violation pursuant to AS 18.60.095(a). Having been previously cited by the Department for a number of asbestos-related violations, having performed literally hundreds of asbestos abatement projects at the pulp mill and employing a full-time asbestos supervisor, KPC was fully responsible for having a thorough knowledge of applicable asbestos rules and regulations. However, when asbestos supervisor James Eakes authorized and permitted two employees to dry-bag asbestos-containing insulation without a proper enclosure or other appropriate safeguards, he acted in flagrant disregard of legal requirements. Eakes readily admitted that he knew what the

employees were doing was wrong and that he failed to take immediate corrective action. There is no question that Eakes never should have allowed these events to occur; by doing so, we conclude that he exposed KPC employees to serious safety and health risks and acted in a grossly negligent and reckless manner.

7. We further conclude that KPC management as a whole is equally at fault for assigning the duties of asbestos supervisor to James Eakes when he had no training or experience with asbestos removal and had not even taken the state's asbestos abatement certification course at the time of the Pump 12 job. The evidence indicated that KPC had other management personnel who were properly trained and certified in asbestos removal and could have been designated to supervise asbestos abatement work in lieu of Eakes. For these reasons, we conclude that Eakes was not a "competent person" within the meaning of the asbestos regulations at the time of the Pump 12 job and that Citation #2, Item #1a, has been established as a "serious" violation.

8. The evidence also establishes that Eakes was aware that one of the employees removing asbestos had cut the sleeves from his protective suit and that allowed the employee to keep working without taking immediate corrective action. While we find that the employee in question -- who was a certified asbestos worker -- acted improperly, we also find that Eakes ignored his supervisory responsibility to take immediate corrective and/or disciplinary action, thereby placing the

employee at serious risk. For these reasons, we conclude that Citation #2, Item #1b, has also been established as a "serious" violation.

9. Despite our conclusion that the conduct alleged in Citation #4, Item #1c (as amended), and Citation #6, Item #1, was "willful," we believe as a matter of law that these two citations should not be affirmed as separate violations since they essentially address the same conduct depending on whether or not the work qualified as a "small scale/short duration" project. Both citations address KPC's failure to implement appropriate engineering controls and work practices on the Pump 12 asbestos removal job. The engineering controls and work practices described in each citation are virtually identical. Affirming each citation as a separate violation with a separate penalty in our view would amount to a kind of administrative "double jeopardy." We therefore affirm both Citation #4, Item #1c, and Citation #6, Item #1, as a single "willful" violation.

10. With respect to the Department's proposed monetary penalties, we believe the circumstances warrant the imposition of the maximum penalty of \$10,000 for the single "willful" violation. AS 18.60.095(h) directs the Department in assessing monetary penalties to give "due consideration to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations." Applying these factors, we take note of the fact that KPC is a large company with hundreds of employees

at the Ward Cove pulp mill; we consider the safety violations cited in Citations #4 and #6 to be extremely serious in light of the well-documented dangers of asbestos exposure; we do not believe KPC management acted in good faith once it learned of the hazardous conditions created; and we find that KPC has been previously been cited for asbestos-related safety violations. For these reasons, we feel the maximum penalty allowed by law is justified for the company's "willful" violation.

11. With respect to the monetary penalty of \$700 proposed by the Department for Citation #2, Items #1a and #1b, we note that KPC stipulated at the hearing that this monetary penalty was properly calculated. We see no reason to change the amount of the penalty and therefore we affirm it as proposed.

#### V. ORDER

1. Citation #1 was withdrawn by the Department and is therefore dismissed.

2. Citation #2, Items #1a and #1b, are affirmed as a single "serious" violation with a penalty of \$700.

3. Upon withdrawal of contest by KPC, Citation #3 is affirmed as a "serious" violation with a penalty of \$700.

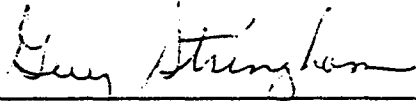
4. Citation #4, Items #1a and #1b, are dismissed.

5. Citation #4, Item #1c, and Citation #6, Item #1, are affirmed as a single "willful" violation with a monetary penalty of \$10,000.

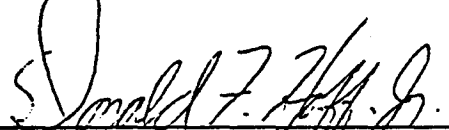
6. Citation #5, Item #1, was withdrawn by the Department and is therefore dismissed. Upon withdrawal of contest by KPC, Citation #5, Items #2 through #8, are affirmed as "other" violations with a penalty of \$100.

DATED this 21<sup>ST</sup> day of December, 1989.

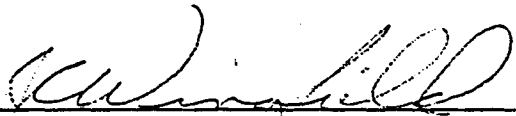
ALASKA OCCUPATIONAL SAFETY  
AND HEALTH REVIEW BOARD



Guy Stringham, Chairman



Donald F. Hoff, Jr., Member



J.C. Wingfield, Member