United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3457

SECRETARY OF LABOR, Complainant, v. M.V.P. PIPING CO., INC., Respondent.	OSHRC Docket No. 12-1233

APPEARANCES:

Kristen M. Lindberg, Attorney; Charles F. James, Counsel for Appellate Litigation; Joseph M. Woodward, Associate Solicitor of Labor for Occupational Safety and Health; M. Patricia Smith, Solicitor of Labor; U.S. Department of Labor, Washington, DC
For the Complainant

Debora R. Durham, Owner; M.V.P. Piping Company, Inc., Acworth, GA
For the Respondent

DECISION

Before: ROGERS, Chairman; ATTWOOD, Commissioner.

BY THE COMMISSION:

M.V.P. Piping Company, Inc., an underground utilities contractor, was installing new sewer mains in Rossville, Georgia, when the Occupational Safety and Health Administration inspected the worksite. OSHA subsequently issued MVP two citations, each alleging one violation of the Occupational Safety and Health Act of 1970 ("OSH Act"), 29 U.S.C. § 651-678: a serious violation of 29 C.F.R. § 1926.100(a) for failing to ensure employees were wearing protective helmets, and a willful violation of 29 C.F.R. § 1926.652(a)(1) for failing to provide cave-in protection for employees working in an excavation. The Secretary proposed a $3,000 penalty for the serious citation and a $42,000 penalty for the willful citation, for a total penalty of $45,000.

Following a hearing, Administrative Law Judge Sharon D. Calhoun affirmed both citations but assessed a $1,000 penalty for the serious citation and a $7,000 penalty for the willful citation. Only the judge's penalty assessments for these two violations are at issue on review. For the following reasons, we vacate the judge's decision as to the serious citation and assess a penalty of $22,000 for the willful citation.

Serious Citation

The Secretary argues that MVP explicitly withdrew its notice of contest for this citation at the hearing, rendering the citation a final order of the Commission.[1] *See* OSH Act § 10(a), 29 U.S.C. § 659(a) (absent notice of contest, Secretary's citation and proposed penalty become final order of Commission). As a result, the Secretary contends that the judge lacked the authority to consider the citation, let alone reduce the proposed penalty from $3,000 to $1,000.

We agree. When the Secretary asserted at the hearing that MVP was no longer contesting the serious citation, the judge asked MVP's representative whether it was "accurate that [MVP is] no longer contesting [the serious citation]," and MVP's representative responded "Yes, ma'am." The judge then made it clear that the serious citation was no longer at issue as MVP had withdrawn its notice of contest, and she explained that the "violation, classified as serious with a proposed penalty of $3,000[,] will be a final order of the Commission by operation of law." *See Wyman-Gordon Co.*, 15 BNA OSHC 1876, 1876-77, 1991-93 CCH OSHD ¶ 29,790, pp. 40,536-37 (No. 84-785, 1992) (withdrawal of notice of contest as to certain violations renders those portions of the citation a final order of the Commission under § 10(a) of the OSH Act, 29 U.S.C. § 659(a)); *Weldship Corp.*, 8 BNA OSHC 2044, 2045 n.5, 1980 CCH OSHD ¶ 24,750, p. 30,480 n.5 (No. 77-3769, 1980) ("A notice of contest withdrawal constitutes an agreement to affirmance of the citations."). Therefore, we vacate that part of the judge's decision addressing this citation and its proposed penalty. The citation, including the $3,000 penalty, is deemed a final order by operation of law.

Willful Citation

The Secretary argues that the judge erred in assessing a penalty of $7,000 for this citation and urges the Commission to assess a penalty closer to his proposed amount of $42,000.

[1] We note that MVP's notice of contest referred only to the willful citation. In its answer to the Secretary's complaint, MVP stated that it was not contesting the serious citation but was asking that the penalty for the violation be reduced.

Specifically, the Secretary claims that the judge's finding of a high gravity, willful violation is inconsistent with a penalty assessment so close to the statutory minimum of $5,000. *See* OSH Act § 17(a), 29 U.S.C. § 666(a). The Secretary also disputes the judge's decision to give reductions for MVP's small size, lack of prior history, and good faith. *See* OSH Act § 17(j), 29 U.S.C. § 666(j) (setting forth factors Commission must consider in assessing appropriate penalty).

The Commission "is the final arbiter of penalties . . . ." *Hern Iron Works, Inc.*, 16 BNA OSHC 1619, 1622, 1993-95 CCH OSHD ¶ 30,363, p. 41,882 (No. 88-1962, 1994), *aff'd*, 937 F.2d 612 (9th Cir. 1991) (table); *see Valdak Corp.*, 17 BNA OSHC 1135, 1138, 1993-95 CCH OSHD ¶ 30,759, p. 42.742 (No. 93-0239, 1995) ("The [OSH] Act places limits for penalty amounts but places no restrictions on the Commission's authority to raise or lower penalties within those limits."), *aff'd*, 73 F.3d 1466 (8th Cir. 1996). In assessing a penalty, the Commission gives due consideration to all of the statutory factors with the gravity of the violation being the most significant. OSH Act § 17(j), 29 U.S.C. § 666(j); *Capform Inc.*, 19 BNA OSHC 1374, 1378, 2001 CCH OSHD ¶ 32,320, p. 49,478 (No. 99-0322, 2001), *aff'd*, 34 F. App'x 152 (5th Cir. 2002) (unpublished). When determining gravity, the Commission considers the number of exposed employees, the duration of their exposure, whether precautions could have been taken against injury, and the likelihood of injury. *Capform*, 19 BNA OSHC at 1378, 2001 CCH OSHD at p. 49,478.

We agree with the judge that this violation was of high gravity. On the day of the inspection, MVP's foreman knowingly exposed two employees to an unprotected excavation.[2] MVP attempted to justify this exposure by substituting a "temporary safety plan," which it had developed with a third-party engineering company, for the protections required by the standard. None of the measures that comprised this plan—backfilling the part of the trench where work was already completed, making a gravel exit ramp, and positioning spotters outside of the excavation to watch for signs of impending collapse—could have prevented a potentially deadly cave-in where the two employees were working. According to the record, these employees were in the excavation that day for at least 20 minutes and possibly as long as 45 minutes. In light of

[2] There was a trench box available onsite but it was the wrong type for the particular location where MVP was working at the time.

these facts, we find that the judge erred by failing to accord sufficient weight to the high gravity of this violation in determining an appropriate penalty. Indeed, a high gravity violation of the cave-in protection standard typically warrants a substantial penalty. *See Westar Mech. Inc.*, 19 BNA OSHC 1568, 1583, 2001 CCH OSHD ¶ 32,483, p. 50,297 (No. 97-0226, 2001) (consolidated); *Lanzo Constr. Co.*, 20 BNA OSHC 1641, 1650, 2002-04 CCH OSHD ¶ 32,732, p. 51,926 (No. 97-1821, 2004).

Nor does our consideration of the remaining penalty factors support assessing a penalty near the statutory minimum. As to history, the assistant area director testified only that MVP had not been inspected by OSHA within the past five years. The record also reflects that MVP has fewer than 25 employees, but establishes that MVP's foreman abdicated his safety responsibilities by relying on the acquiescence of the third-party engineering company to his "safety plan." *See Conie Constr. Inc.*, 16 BNA OSHC 1870, 1872-73, 1993-95 CCH OSHD ¶ 30,474, p. 42,090 (No. 92-0264, 1994) (employer cannot substitute its own idea of what is safe); *see also Martin v. OSHRC (CF&I Steel Corp.)*, 941 F.2d 1051, 1059 n.10 (10th Cir. 1991) (employer may not substitute its own judgment for that of OSHA). The foreman also acted improperly in relying on his employees to tell him if they felt safe enough to be in the excavation without cave-in protection, a fact which the judge failed to take into account. *See Armstrong Cork Co.*, 8 BNA OSHC 1070, 1074, 1980 CCH OSHD ¶ 24,273, p. 29,560 (No. 76-2777, 1980) ("An employer cannot shift [its OSH Act] responsibility to its employees by relying on them to, in effect, determine whether the conditions under which they are working are unsafe.").

Based on all of the evidence in the record and having considered the statutory penalty factors, we find that $22,000 is an appropriate penalty for this willful citation.

SO ORDERED.

/s/
Thomasina V. Rogers
Chairman

/s/
Cynthia L. Attwood
Commissioner

Dated: January 22, 2014

United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
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Secretary of Labor, Complainant, v. M.V.P. Piping Co., Inc., Respondent.	OSHRC Docket No.: **12-1233**

Appearances:

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For the Secretary

Debora R. Durham, Owner, *pro se,* M.V.P. Piping Company, Inc., Acworth, Georgia
For the Respondent

BEFORE: Administrative Law Judge Sharon D. Calhoun

DECISION AND ORDER

On December 29, 2011, Fred King, a compliance safety and health office (CSHO) for the Occupational Safety and Health Administration (OSHA) conducted an inspection of a worksite in Rossville, Georgia, where M.V.P. Piping Company, Inc. (MVP) had excavated a trench. Based on his inspection, on April 23, 2012, the Secretary issued two citations to MVP alleging violations of the Occupational Safety and Health Act of 1970 (Act).

Item 1 of Citation No. 1 alleges a serious violation of 29 C.F.R. § 1926.100(a), for failing to ensure MVP's employees were wearing protective helmets while working in an area where there was a possible danger of head injury. The Secretary proposed a penalty of $3,000.00 for this item.

Item 1 of Citation No. 2 alleges a willful violation of 29 C.F.R. § 1926.652(a)(1), for failing to provide cave-in protection for employees working in an excavation 5 feet or more in depth. The Secretary proposed a penalty of $42,000.00 for this item.

MVP timely contested the Citations. The undersigned held a hearing in this matter on June 5, 2013, in Atlanta, Georgia. MVP was ably represented *pro se* by its Financial Officer and part-owner, Debora Durham. MVP stipulates the Commission has jurisdiction over this proceeding under § 10(c) of the Act and that it is an employer covered under § 3(5) of the Act (Tr. 11).

The parties have filed post-hearing briefs. MVP does not dispute the violation cited in Item 1 of Citation No. 1, but asks for a reduction in the penalty. MVP does not dispute the violation cited in Item 1 of Citation No. 2, but argues the violation was not willful and that the penalty should be reduced.

For the reasons discussed below, the undersigned affirms Item 1 of Citation No. 1 and Item 1 of Citation No. 2, and assesses a penalty of $1,000.00 and $7,000.00, respectively, for the two items.

Background

MVP is a family-owned underground utilities contractor, specializing in water and sewer line installation (Tr. 24). In 2011, Catoosa County in Georgia hired MVP to install new sewer mains for a subdivision currently using septic systems (Tr. 23). MVP began work on the project in September or October of 2011 (Tr. 23). Catoosa County also hired CTI, an engineering firm, to oversee MVP's work. CTI provided a full-time Site Inspector, who was at MVP's worksite every day. The Site Inspector's immediate Supervisor sometimes showed up at the worksite (Tr. 31-32).

MVP is owned by Financial Officer Debora Durham, her husband Billy Durham, and their son, who is a Foreman for MVP. The Catoosa County project was the Foreman's first experience as a supervisor (he graduated from the University of West Georgia with a degree in Environment Science in May of 2011) (Tr. 18, 22). The Foreman is a licensed utility foreman and holds a level 1-A certification in Georgia soil and water conservation. He took a trench safety class put on by Archer Western Company and was certified as a competent person (Tr. 20-21).

On December 29, 2011, MVP's Foreman was supervising a four-man crew at its worksite on South Lake Terrace in Rossville, Georgia. MVP had excavated a trench 18 to 20 feet long down the center of the asphalt street. The walls of the excavation were vertical. MVP had a trench box at the site but was not using it in the excavation that day because the crew was experiencing difficulty leveling the floor of the excavation. At some point the excavation exceeded 5 feet. MVP's Foreman and CTI's Site Inspector instructed two of MVP's employees to enter the excavation after backfilling most of it with gravel to help stabilize it (Tr. 31).

After backfilling most of the excavation and creating two gravel ramps for egress, the Foreman stationed two employees above the excavation with ladders and instructed them to keep a close eye on the excavation walls. Then, as the two crew members kept watch on top (as well as the Foreman, Billy Durham, and CTI's Site Inspector), the other two crew members entered the excavation in order to set the sewer pipe (Tr. 31-34).

While the MVP employees were working in the excavation, CSHO Fred King arrived at the site. He had been sent there by his Assistant Area Director upon receipt of a phone referral regarding an unprotected excavation (Tr. 64). The CSHO held an opening conference with the Foreman. He photographed the excavation and took measurements (Exhs. C-1 through C-10). The excavation was 6 feet 4 inches deep in the area where the employees were working (Tr. 30). The CSHO also took a soil sample from a spoil pile and sent it to OSHA's laboratory for analysis. The lab report stated the soil sample was Type B soil (Exh. C-11; Tr. 80-82).

Citation No. 1

The Secretary has the burden of establishing the employer violated the cited standard.[1]

> To prove a violation of an OSHA standard, the Secretary must show by a preponderance of the evidence that (1) the cited standard applies; (2) the employer failed to comply with the terms of the cited standard; (3) employees had access to the violative condition; and (5) the cited employer either knew or could have known with the exercise of reasonable diligence of the violative condition.

JPC Group, Inc., 22 BNA OSHC 1859, 1861 (No. 05-1907, 2009).

Item 1

Item 1 of Citation No. 1 alleges:

[1] Although MVP does not dispute that it violated the cited standards, the undersigned finds it helpful to set out the elements of the violations as a prelude to discussing the disputed issues of classification and penalty.

29 CFR 1926.100(a): Employees were not protected by protective helmets while working in areas where there was a possible danger of head injury from impact, or from falling or flying objects, or from electrical shock and burns:

a) Trench excavation. Two employees were not wearing hard hats while installing 8 inch PVC pipe for a gravity sanitary sewer system in an approximately 6 feet 4 inches deep trench excavation.

Section 1926.100(a) provides:

Employees working in areas where there is a possible danger of head injury from impact, or from falling or flying objects or from electrical shock and burns, shall be protected by protective helmets.

Applicability of the Cited Standard

Two of MVP's employees were working in an area of the excavation where the walls were over their heads (Exh. C-1). Tools and gravel are visible near the edges of the excavation in the photographs (Exhs. C-1 through C-5). There was a possible danger of head injury from falling objects. The cited standard applies to the worksite.

Compliance with the Terms of the Standard

It is evident from the photograpic exhibits that the employees were not wearing protective helmets. Exhibit C-2 clearly shows both employers were wearing cloth baseball caps. They were in an area where they were at risk for being struck by falling gravel or tools. MVP failed to comply with the terms of the standard.

Employee Exposure

MVP's employees were exposed to the hazard of being struck by falling objects.

Employer Knowledge

The Foreman testified he "was standing above looking down into the trench" while the two employees were setting the pipe in the excavation, as was his father, co-owner of the company (Tr. 48). The Foreman had actual knowledge of the violation of the terms of § 1926.100(a). His knowledge is imputed to MVP.

Under § 17(k) of the Act, a violation is serious "if there is a substantial probability that death or serious physical harm could result from" the cited condition. Here, the employees could have been struck by falling tools or rocks, resulting in serious physical harm. The classification of serious is appropriate. The Secretary has met his burden, establishing a prima facie case as to the cited standard. Item 1 of Citation No. 1 is affirmed as serious.

Citation No. 2

Item 1

Item 1 of Citation No. 2 alleges:

> 29 CFR 1926.652(a)(1): Each employee was not protected from cave-ins by an adequate protective system designed accordance with paragraph (b) or (c) of this section.
>
> a) Trench excavation. The employees working in an approximately 6 foot 4 inch deep section of a trench excavation were not protected from cave-in. The walls of the trench excavation, which had not been benched or cut at the prescribed 45 degree angle, were not shielded or supported.

Section 1926.652(a)(1) provides:

> Each employee in an excavation shall be protected from cave-ins by an adequate protective system designed in accordance with paragraph (b) or (c) of this section except when:
> . . .
> (ii) Excavations are less than 5 feet (1.52 m) in depth and examination of the ground by a competent person provides no indication of a potential cave-in.

Applicability of the Cited Standard

Section 1926.652(a)(1) is found in Subpart P--Excavations of the Construction Standards. Section 1926.650(a) provides: "This subpart applies to all open excavations made in the earth's surface. Excavations are defined to include trenches." It is undisputed that MVP's employees were working in an open excavation at its worksite. Section 1926.652(a)(1) applies to the cited conditions.

Compliance with the Terms of the Standard

It is undisputed that at the time of the CSHO's inspection, the excavation was 6 feet 4 inches deep with vertical walls. As such, some form of cave-in protection was required to protect employees working in the excavation.

MVP failed to provide any cave-in protection to its employees, despite having a trench box on site. MVP failed to comply with the terms of the standard.

Employee Exposure

The Foreman instructed two of MVP's crew members to enter the 6 feet 4 inches deep excavation. They were exposed to the hazard of being crushed by a cave-in.

Employer Knowledge

The Foreman, in the presence of co-owner Billy Durham, instructed the employees to enter the excavation. MVP had actual knowledge of the violation.

The record establishes a violation of § 1926.652(a)(1).

Willful Classification

The Secretary classified Item 1 of Citation No. 2 as willful.

> A willful violation is one "committed with intentional, knowing or voluntary disregard for the requirements of the Act, or with plain indifference to employee safety." *Falcon Steel Co.,* 16 BNA OSHC 1179, 1181, 1993-95 CCH OSHA ¶30,059, p. 41, 330 (No. 89-2883, 1993) (consolidated); *A.P. O'Horo Co.,* 14 BNA OSHC 2004, 2012, 1991-93 C.H. OSHA ¶ 29,223, p. 39,133 (No. 85-0369, 1991). A showing of evil or malicious intent is not necessary to establish willfulness. *Anderson Excavating and Wrecking Co.,* 17 BNA OSHC 1890, 1891, n.3, 1995-97 C.H. OSHA ¶ 31,228, p. 43,788, n.3 (No. 92-3684, 1997), *aff'd* 131 F.3d 1254 (8th Cir. 1997). A willful violation is differentiated from a nonwillful violation by an employer's heightened awareness of the illegality of the conduct or conditions and by a state of mind, *i.e.,* conscious disregard or plain indifference for the safety and health of employees. *General Motors Corp., Electro-Motive Div.,* 14 BNA OSHC 2064, 2068, 1991-93 C.H. OSHA ¶ 29,240, p. 39,168 (No. 82-630, 1991)(consolidated).

A.E. Staley Manufacturing Co., 19 BNA OSHC 1199, 1202 (Nos. 91-0637 & 91-0638, 2000), *aff'd* 295 F.3d 1341 (D.C. Cir., 2002).

MVP contends it had difficulty excavating the hard soil and could not dig a stable floor for the trench box. In its post-hearing brief, MVP offered the following explanation for its failure to provide cave-in protection in the excavation:

> [The Foreman, the CTI Site Inspector,] and the guys that met onsite the evening prior to the OSHA Inspection had come up with a temporary safety plan to accommodate the safety of the employees in the trench. They decided that the two tallest employees would go into the trench and the other two would stay on top to watch for possible dangers. They decided to backfill the trench completely with gravel to make the open area sturdier. They decided to make a gravel ramp from the area where the two employees were standing all the way out of the trench. They installed the gravel at an incline. They decided to put the ladder inches away from where the guys were working in the event of emergency.
>
> The inspector said she would be there on top monitoring the soil for any signs of pull away also. She also said she would have to run it by -- [her supervisor]. The

> next morning [w]e were told by [the Site Supervisor] that we could do the tie-in with the safety measures we had put in place. That we should work swiftly to get in and get out minimizing he risk. There was no digging with Machinery while in the trench to lessen the likeliness of the soil pulling away from the compacted soil.

(MVP's brief, pp. 1-2).

The record does not establish MVP demonstrated plain indifference to employee safety. On the contrary, MVP, in consultation with CTI, devised a plan it believed would minimize the risk to the employees it instructed to enter the excavation. MVP backfilled the excavation with gravel in an effort to stabilize the excavation walls, and the Foreman set two employees atop the excavation with ladders while the other two entered it. The undersigned believes MVP's Financial Officer Debora Durham is sincere when she writes of MVP's employees, "We know their families, we socialize with each other away from the workplace and some are even relatives. We never willfully put any of them in danger for any amount of money" (MVP's brief, p. 4). MVP was not indifferent to the safety of its employees.

The Secretary has established, however, that MVP manifested a conscious disregard for the requirements of the Act. MVP's defense essentially is that it relied on a third-party, CTI, to authorize the entry of the employees into the unprotected excavation.

The Foreman and CTI's Site Inspector discussed sending the employees into the excavation without cave-in protection and, the Foreman testified, the Site Inspector "had no problem with that at all. We both agreed that, as long as we were trying to be as safe as possible during the particular time, that everything should be okay" (Tr. 47). The problem for MVP is that the Foreman, as a certified competent person, should have known that the Site Inspector had no authority to suspend the requirements of the Act. It was not reasonable for him to rely on CTI's agreement to send two employees into an unprotected excavation, with instructions to the other employees to "basically, just keep an eye out for the guys that are down there working" (Tr. 47). The Foreman (as well as his father) demonstrated a conscious disregard for the requirements of the Act when he stood at the edge of the excavation and watched the employees enter it. The Foreman acknowledged at the hearing that the excavation was 6 feet 4 inches deep and was dug in Type B soil (Tr. 29-30). His father had recommended getting a trench box "because we were getting deep" (Tr. 28). In the trench safety class the Foreman took to obtain

his competent person certification, he learned "trench width, trench depths, and different safety aspects of doing trench work" (Tr. 21). As an underground utility contractor, MVP excavates trenches on a continual basis. MVP was aware § 1926.652(a)(1) required it to provide cave-in protection in the excavation at issue, yet it intentionally disregarded that requirement.

Item 1 of Citation No. 2 is properly classified as willful and is affirmed as willful.

Penalty Determination

The Commission is the final arbiter of penalties of all contested cases. "In assessing penalties, section 17(j) of the OSH Act, 29 U. S. C. § 666(j), requires the Commission to give due consideration to the gravity of the violation and the employer's size, history of violation, and good faith." *Burkes Mechanical Inc.,* 21 BNA OSHC 2136, 2142 (No. 04-0475, 2007). "Gravity is a principal factor in a penalty determination and is based on the number of employees exposed, duration of exposure, likelihood of injury, and precautions taken against injury." *Siemens Energy and Automation, Inc.,* 20 BNA OSHC 2196, 2201 (No. 00-1052, 2005).

MVP employed fewer than 25 employees (Tr. 97.98). OSHA had not previously cited MVP for violations (Tr. 104). MVP demonstrated good faith during this proceeding.

Item 1 of Citation No.1, § 1926.100(a): The gravity of the violation is moderate. Two employees were exposed for approximately 20 minutes (Tr. 34). Although it was possible that tools or rocks could fall on them while they were in the excavation, a review of Exhibits C-1 through C-5 establish it was not likely. A penalty of $1,000.00 is assessed.

Item 1 of Citation No.2, § 1926.652(a)(1): The gravity of the violation is high. Two employees were exposed to the deadly hazard of a trench cave-in. The employees were exposed for approximately 20 minutes. Had a cave-in occurred, death or serious physical injuries would have likely occurred. Exhibit C-1 shows that the vertical excavation walls were above the heads of the employees. The employees were at risk for being completely buried in a cave-in.

The penalty is mitigated, however, by several factors. MVP is a small company with no history of OSHA violations. The testimony of the Foreman as well as the representation by Ms. Durham establish the company operated in good faith in this proceeding and it has a commitment to working safely. The Foreman, while competent, is inexperienced (this was his first project as a supervisor). His misjudgment in this instance will not, it is hoped, be repeated on future

projects. The Foreman's misplaced reliance on the third-party engineering company, while not excusable with regard to willfulness, does weigh as a factor in reducing the penalty.

Upon consideration of the relevant factors, it is determined that a penalty of $7,000.00 is appropriate for Item 1 of Citation No. 2.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The foregoing decision constitutes the findings of fact and conclusions of law in accordance with Rule 52(a) of the Federal Rules of Civil Procedure.

ORDER

Based upon the foregoing decision, it is HEREBY ORDERED that:

(1) Item 1 of Citation No. 1, alleging a serious violation of 29 C.F.R. § 1926.100(a), is affirmed and a penalty of $1,000.00 is assessed; and

(2) Item 1 of Citation No. 2, alleging a willful violation of 29 C.F.R. § 1926.652(a)(1), is affirmed and a penalty of $7,000.00 is assessed.

SO ORDERED.

/s/
Sharon D. Calhoun
Administrative Law Judge

Date: September 20, 2013