

SECRETARY OF LABOR,

Complainant,

v.

WILLIAMS GAS PIPELINE/SOUTH CENTRAL

Respondent.

OSHRC Docket No. 00-2150

DIRECTION FOR REVIEW AND REMAND ORDER

Before: ROGERS, Chairman; EISENBREY, Commissioner.

BY THE COMMISSION:

By order dated May 8, 2001, Administrative Law Judge Nancy J. Spies approved a “Stipulation and Joint Motion” settlement agreement executed by the parties in the above-captioned case. On May 24, 2001, the Respondent in this case filed a “Motion to Amend Style of Proceeding,” asserting that the citation and all subsequent documents in the case, including the settlement agreement, erroneously identify it as Williams Gas Pipeline/South Central, instead of Texas Gas Transmission Corporation. It requests that “the Commission amend the style of this proceeding to reflect the true legal entity at issue in this matter.” According to Respondent, the Secretary neither opposes nor consents to the Motion.

We conclude that the evidence in the record is insufficient for the Commission to determine whether Respondent's Motion should be granted. Pursuant to 29 U.S.C. § 661(j) and 29 C.F.R. § 2200.92(a), the decision of the Administrative Law Judge is directed for review. We remand this case to Judge Spies for further proceedings.

SO ORDERED.

/s/

Thomasina V. Rogers
Chairman

/s/

Ross Eisenbrey
Commissioner

Date: June 18, 2001

**UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

Secretary of Labor,
Complainant,

v.

Williams Gas Pipeline / South
Central,

Respondent.

OSHRC Docket Number. **00-2150**

Order Approving Settlement

On May 8, 2001, an executed stipulation and joint motion was received from the parties. The settlement having been considered, it is ORDERED:

1. That the terms of the settlement are approved and incorporated herein as part of this order;
2. That the citations and proposed penalties are vacated, amended and affirmed in accordance with the terms of the settlement and a total penalty in the amount of \$13,950 is assessed; and
3. That Respondent's motion to withdraw its notice of contest, pursuant to the terms of settlement, is granted.

SO ORDERED.

Date May 8, 2001

/S/

Judge Nancy J. Spies

100 Alabama Street, S W. Room 2R90
Atlanta, GA 30303-3104

Phone (404)562-1640 Fax (404) 562-1650

This notice has been sent to:

For the Employer:

Baker, Donelson, Bearman & Caldwell
W. Davis Frye, Esq
P O Box14167
Jackson, MS 39236

For the Secretary of Labor:

Office of the Solicitor, U S DOL
ATTN: Carla J Gunnin, Esq
Chambers Bldg., High Point Office
Center Suite 150
100 Centerview Drive
Birmingham, AL 35216

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,
Complainant,

v.

OSHRC DOCKET NO.

WILLIAMS GAS PIPELINE/SOUTH CENTRAL,
and its Successors,
Respondent.

00-2150

STIPULATION AND JOINT MOTION

The parties stipulate and agree as follows:

I. Complainant hereby amends her Citation and Notification of Penalty for the violations alleged in the Citation issued October 23, 2000, as follows:

Citation 1, Item I - Item amended to allege a violation of Section 5(a)(1) of the Occupational Safety and Health Act of 1970. The item shall read as follows:

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to excavations without adequate protection systems.

Citation 1, Item 2 - Withdrawn.

Citation 1, Item 3 - Item amended to allege a violation of Section 5(a)(1) of the Occupational Safety and Health Act of 1970. The item shall read as follows:

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to

employees in that employees were not removed from the hazardous area when hazardous conditions were found.

The total penalty shall be \$13,950.

2. Respondent represents that the purported violations, as amended, alleged in the Citations and Notifications of Penalties issued on October 23, 2000, have been and will remain abated.

3. Respondent hereby withdraws the Notice of Contest as to such Citations and Notifications of Penalties, as amended. Respondent states that this withdrawal was not induced by a promise of any other party hereto except as may appear herein.

4. Affected employees herein are represented by a certified bargaining representative. The only affected employees represented by a certified bargaining representative were the hourly field employees represented by the Chemical Workers Union Local Number 637 who have been provided notice of this Stipulation and Joint Motion and who have not objected to the terms or conditions contained herein.

5. It is understood and agreed by the parties that this agreement constitutes a compromise of disputed claims. None of the foregoing agreements, statements, stipulations, or actions taken by respondent pursuant thereto shall be deemed an admission by respondent of the allegations contained within the Citation and Notification of Penalty and the Complaint herein. None of the foregoing agreements, statements, stipulations, findings, and none of the actions taken by respondent pursuant thereto are intended to be used for any other purpose, including as evidence in any proceeding in any court, agency, or forum, except for proceedings arising under the Occupational Safety and Health Act of 1970.

6. Each party hereby agrees to bear its own fees (including attorney fees) and other expenses incurred by such party in connection with any stage of this proceeding, including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended.

7. Respondent will pay the total penalty of \$13,950 (Thirteen Thousand Nine Hundred Fifty and no/ 100s) within 10 (ten) days after approval of the Joint Stipulation and Motion by the Occupational Safety and Health Administration Judge to whom this matter has been assigned.

8. Respondent certifies that on May 1, 2001, notice of the foregoing was given to employees by posting a true copy (as executed by respondent) of this Stipulation, in accordance with Commission's Rule 7(g) [29 C.F.R. 2200.7(g)].

WILLIAMS GAS PIPELINE /
SOUTH CENTRAL

JUDITH E. KRAMER
Acting Solicitor of Labor

JAYLYNN K. FORTNEY
Regional Solicitor

CYNTHIA WELCH BROWN
Associate Regional Solicitor

CARLA J. GUNNIN
Attorney

By: _____ /S/
W. Davis Frye
Attorney

By: _____ /S/
Carla J. Gunnin
Attorney

Dated: _____
BAKER, DONELSON, BEARMAN,
& CALDWELL
Attorneys for Respondent.

Dated: 4/30/01
Attorneys for the Secretary
of Labor, United States
Department of Labor.

SOL Case No. 0100060

CERTIFICATE OF SERVICE

I certify that the foregoing Stipulation and Joint Motion was served this 30th day of April, 2001, by mailing a true copy thereof by first-class mail to:

W. Davis Frye, Esquire
Baker, Donelson, Bearman &
Caldwell, P. C.
4268 I-55 North
Meadowbrook Office Park
Jackson, Mississippi 39211

/s/

Carla J. Gunnin
Attorney