U.S. Department of Labor

Office of the Solicitor
555 Griffin Square Building
Dallas, Texas 75202

April 24, 1980

Reply to the Attention of: FREDD J. HAAS:el



Mr. Ray H. Darling, Jr.
Executive Secretary
Occupational Safety and
Health Review Commission
1825 K Street NW
Washington, D.C. 20006

RECEIVED
APR 30 1980
J. W. WHITTLESEY

Re: Secretary of Labor v. Union Carbide, Inc.
OSHRC Docket No.
OSHA Inspection No. S6329-019
Region VI SOL Case No. 12419

Dear Mr. Darling:

Enclosed for filing are the original and two copies of the below listed instruments. After filing, please return a conformed copy to us in the enclosed envelope, indicating the date filed.

Complaint

If you have any questions, please contact us at 214/767-4902 (commercial) or 729-4902 (FTS).

Respectfully,

FREDD J. HAAS
Attorney

enclosures: Complaint (3) & Return Envelope

CC: Mr. John W. Whittlesey
Chief Labor Counsel
Union Carbide Corporation
270 Park Avenue
New York, New York 10017

UCTC 21229

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UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

RAY MARSHALL, Secretary of Labor, United States Department of Labor, Complainant,	)	OSHRC Docket
v.	)	No. _____
UNION CARBIDE, INC., Respondent.	)	

COMPLAINT

An inspection has disclosed that, at the times and in the manner hereinafter stated, the provisions of Section 5(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq.), hereinafter referred to as the Act, and of the Occupational Safety and Health Standards, promulgated thereunder, have been violated. It is, therefore, alleged and charged that:

I.

Jurisdiction of this proceeding is conferred upon the Occupational Safety and Health Review Commission, hereinafter referred to as the Commission, by Section 10(c) of the Act.

UCTC 21230

II.

Respondent, Union Carbide, Inc., is a corporation having a place of business and office at Texas City, Texas and a workplace at Texas City, Texas, where it is engaged in the operation of a chemical plant. At all times hereinafter mentioned, the activities of the respondent and employees of the respondent have included, and do include, the production of goods for commerce, being engaged in commerce, or the handling or working on goods that move in interstate commerce. By reason thereof, respondent has been, and is an employer engaged in a business affecting commerce who has employees within the meaning of Section 3(5) of the Act.

III.

On or about March 13, 1980, an inspection was conducted by an authorized representative of the complainant of the aforementioned workplace, under the operation and control of the respondent pursuant to Section 9(a) of the Act. As a result of the said inspection, respondent was issued Citation No. S6329-019, which is attached hereto as "Exhibit A," and hereby incorporated by reference. The said exhibit includes a copy of each individual citation and notification of proposed penalty made the subject matter of this action. In each instance, the citation identifies the specific standard violated, describes the violation, specifies the abatement date and proposed penalty for each contested item.

IV.

Pursuant to 29 CFR Part 2200.33(a)(3) complainant hereby amends "Exhibit A" as it read in item 1 of Serious Citation No. S6329-019 as follows:

UCTC 21231

Union Carbide trial exhibit UC-1214: Fredd J. Haas to Ray H. Darling, Jr. Transmitting OSHA Complaint Against Uni... Published by AsbestosClaims.Law
ACL Doc 16387 · Page 3 of 6 asbestosclaims.law/library/16387/3

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 were likely to cause death or serious physical harm to employees, in that:

(a) An amine-sensitive employee was allowed to work in an area where there existed the potential of amine releases, particularly a release of ethylenediamine.

The reason for such amendment is to clearly set forth the hazard which the employee was exposed to.

V.

In determining the abatement date for each contested item, as aforesaid, complainant gave due consideration to the gravity of the violations, the number of employees exposed, the availability of needed equipment and the period of time within which respondent can reasonably be expected to correct said violation.

VI.

In determining the amount of each proposed penalty, as aforesaid, as characterized under Section 17 of the Act, due consideration was given to the gravity of the violation, the good faith of the employer, the size of respondent's business, and the history of previous violations as required under Section 17(j) of the Act.

VII.

The complainant received from the respondent a timely notification of intent to contest the citation, proposed penalty, and the reasonableness of the abatement, pursuant to the provisions of Section 10(a) of the Act.

UCTC 21232

Union Carbide trial exhibit UC-1214: Fredd J. Haas to Ray H. Darling, Jr. Transmitting OSHA Complaint Against Uni... Published by AsbestosClaims.Law
ACL Doc 16387 · Page 4 of 6 asbestosclaims.law/library/16387/4

WHEREFORE PREMISES CONSIDERED, Complainant demands the Commission issue an order pursuant to section 10(c) of the Act affirming the citation, penalty, and abatement date.

CARIN ANN CLAUSS
Solicitor of Labor

JAMES E. WHITE
Regional Solicitor

JACK F. OSTRANDER
Counsel for Occupational Safety and Health

FREDD J. HAAS
Attorney

Attorneys for Complainant.

NOTICE TO RESPONDENT
You are hereby notified that you must plead or otherwise answer this complaint, either denying or admitting the allegations, within 15 days of your receipt of this complaint. Failure to do so may result in dismissal of your notice of contest. See Rule 33(b), Rules of Procedure, Occupational Safety and Health Review Commission. Pleadings are to be sent to the Occupational Safety and Health Review Commission, 1825 K Street, N. W., Washington, D. C. 20006.

SOL Case No. 12419

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing Pleading of the Secretary of Labor upon all parties, party representatives, and attorneys in the above entitled and numbered cause by depositing the same in the United States Mail, in a franked envelope addressed to such parties and attorneys last known address.

Certified this 24 day of April, 1980.

FREDD J. HAAS
Attorney

UCTC 21233

...Texas City Area Office
1100 Haas Rd. 1 - Suite 505
Houston, TX 77058

REGION	AREA	PAGE
6	1365	1 of 1

Certified Mail No. 5910333
Return Receipt Requested
INSPECTION DATE:
3/13/80
INSPECTION SITE:
5th Avenue South 3300
Texas City, TX 77590

CITATION NUMBER	ITEM NUMBER
SERIOUS	1

TO: Union Carbide, Inc.
P.O. Box 471
Texas City, TX 77590

Attn: Mr. Larry Smith

THE LAW REQUIRES that a copy of this Citation be posted immediately in a prominent place at or near the location of the violation(s) cited below. The Citation must remain posted until the violations cited below have been corrected, or for 3 working days (excluding weekends and Federal holidays) whichever is longer.

PENALTIES ARE DUE WITHIN 15 DAYS OF RECEIPT OF THIS NOTIFICATION UNLESS CONTESTED (See enclosed Booklet)

This Section Be Detached Before Posting

s citation describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed below are based on these violations. u must correct the violations referred to in this citation by the dates listed below and pay the penalties proposed, unless within 15 working days cluding weekends and Federal holidays) from your receipt of this citation and penalty you mail a notice of contest to the U.S. Department of or Area Office at the address shown above. (See the enclosed booklet which outlines your responsibilities and courses of action and should be d in conjunction with this form.)

M NUMBER NDARD, REGULATION OR SECTION OF THE ACT VIOLATED: - DESCRIPTION	DATE BY WHICH VIOLATION MUST BE CORRECTED	PENALTY
The violations described in this citation are alleged to have occurred on or about the day the inspection was made unless otherwise indicated within the description given below. 1. 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 were likely to cause death or serious physical harm to employees, in that: (a) An employee who was medically restricted from the chemical area of the plant because of his sensitivity to amine compounds, was assigned to the chemical area with management's knowledge.	Immediately	$800

EXHIBIT "A"

A DIRECTOR
DAVIS LATHE R Davis Lathe

$800

CE TO EMPLOYEES — The law gives an employee or his ...entative the opportunity to object to any abatement date ...r a violation if he believes the date to be unreasonable. ...ntest must be mailed to the U.S. Department of Labor ...ce at the address shown above within 15 working days ... receipt ...

EMPLOYER DISCRIMINATION UNLAWFUL — The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he has been discriminated against may file a complaint no later than ... days ...

TOTAL PENALTY FOR THIS CITATION

Make check or M... Order Payable T... DOL OSHA

UCTC 21234