

level reading was taken and based on both readings Respondent concluded that noise exposure was within permissible levels.

3. On March 29, 1978 an inspection of the Kawaihae site was made by a compliance officer for the Division of Occupational Safety and Health, State of Hawaii. As a result of said inspection Respondent was issued a citation signed by Masayoshi Ogata pursuant to §213.2 of the Rules and Regulations of the Occupational Safety and Health Standards, State of Hawaii. Also as a part of said citation a proposed penalty in the amount of \$225 was made. §213.2 in pertinent part reads:

Administrative or Engineering Control.
When employees are subjected to sound levels exceeding those listed in Table 213-1 of this section, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce sound levels within the levels of the table, personal protective equipment as required in Chapter 205, shall be provided and used to reduce sound levels within the levels of the table.

4. Respondent's expressed desire to contest the citation and proposed penalty was transmitted to the Board.

5. Respondent subsequently constructed a sound barrier at a cost of \$5,019.39 so as to comply with the citation.

6. On April 12, 1979 a hearing on the matter of the citation and proposed penalty was held in Hilo at which time the parties stipulated that the contest was to be restricted only to the amount of the proposed penalty. Testimony was taken of Frank R. Wescamp and documentary evidence was admitted into evidence.

CONCLUSIONS OF LAW

Based on the law in effect and the evidence presented the Board concludes that Respondent's good faith efforts both before the inspection and in abating the condition comply with legislation designed to permit and encourage employer and employee's efforts to reduce injury and disease arising out of employment, and to stimulate them to institute new programs and to perfect existing programs for providing safe and healthful working environments. Respondent's efforts to insure that noise exposure was kept within permissible levels is commendable.

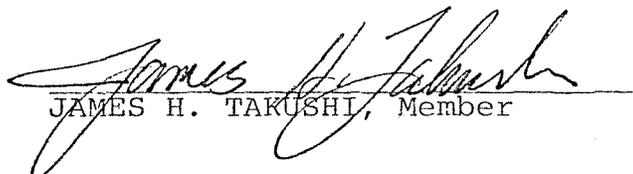
ORDER

Based on the foregoing findings of fact and conclusions of law, and in accordance with Chapter 396, HRS, it is ordered that the proposed penalty in the amount of \$225 be and hereby is vacated.

Dated: Honolulu, Hawaii, MAY 7 1979.


YUKIO TAKEMOTO, Member

I CONCUR:


JAMES H. TAKUSHI, Member

I do hereby certify that the foregoing
is a full, true and correct copy of
the original on file in this office.


Carol Kanehira