

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil No. 3:19-CV-405
)
 DAVEX ENERGY, LLC,)
)
 Defendant.)

COMPLAINT

The United States of America, by and through J. Douglas Overbey, United States Attorney for the Eastern District of Tennessee, brings this action against Defendant, and avers as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1345.
2. Venue is proper pursuant to 28 U.S.C. § 1391.
3. The Department of Labor, Mine Safety and Health Administration (“MSHA”) conducted inspections of Defendant’s work site in Kentucky and found violations of workplace safety standards under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.*, 30 C.F.R. § 100.1, *et seq.*
4. As a result of those violations, MSHA assessed civil penalties, interest, additional penalties, costs, and fees against Defendant.
5. The amounts owed by Defendant are evidenced by the Certificates of Indebtedness attached hereto as Collective Exhibit A, and they are summarized as follows:
 - a. Principal penalty amount of \$5,868, plus interest as of January 31, 2015, in the amount of \$70.72, plus penalties, costs, and fees in the amount of \$2,142.84, for a total of \$8,081.56;

- b. Principal penalty amount of \$2,016, plus interest as of March 7, 2015, in the amount of \$26.97, plus penalties, costs, and fees in the amount of \$737.15, for a total of \$2,780.12;
- c. Principal penalty amount of \$2,000, plus interest as of March 7, 2015, in the amount of \$26.74, plus penalties, costs, and fees in the amount of \$769.51, for a total of \$2,796.25;
- d. Principal penalty amount of \$900, plus interest as of March 14, 2015, in the amount of \$13.59, plus penalties, costs, and fees in the amount of \$353.67, for a total of \$1,267.26;
- e. Principal penalty amount of \$160, plus interest as of April 4, 2015, in the amount of \$1.93, plus penalties, costs, and fees in the amount of \$58.43, for a total of \$220.36;
- f. Principal penalty amount of \$19,000, plus interest as of April 18, 2015, in the amount of \$237.36, plus penalties, costs, and fees in the amount of \$7,153.83, for a total of \$26,391.19;
- g. Principal penalty amount of \$5,700, plus interest as of May 9, 2015, in the amount of \$94.95, plus penalties, costs, and fees in the amount of \$2,166.18, for a total of \$7,961.13;
- h. Principal penalty amount of \$2,556, plus interest as of May 30, 2015, in the amount of \$29.12, plus penalties, costs, and fees in the amount of \$932.78, for a total of \$3,517.90;
- i. Principal penalty amount of \$1,400, plus interest as of June 20, 2015, in the amount of \$19.33, plus penalties, costs, and fees in the amount of \$529.98, for a total of \$1,949.31;
- j. Principal penalty amount of \$1,800, plus interest as of July 14, 2015, in the amount of \$27.59, plus penalties, costs, and fees in the amount of \$685.21, for a total of \$2,512.80;
- k. Principal penalty amount of \$100, plus interest as of July 14, 2015, in the amount of \$1.19, plus penalties, costs, and fees in the amount of \$36.51, for a total of \$137.70;

- l. Principal penalty amount of \$570, plus interest as of August 1, 2015, in the amount of \$6.86, plus penalties, costs, and fees in the amount of \$208.15, for a total of \$785.01;
- m. Principal penalty amount of \$1,500, plus interest as of August 22, 2015, in the amount of \$21.71, plus penalties, costs, and fees in the amount of \$565.51, for a total of \$2,087.22;
- n. Principal penalty amount of \$607, plus interest as of August 29, 2015, in the amount of \$7.29, plus penalties, costs, and fees in the amount of \$221.65, for a total of \$835.94;
- o. Principal penalty amount of \$18,000, plus interest as of September 12, 2015, in the amount of \$1,219.07, plus penalties, costs, and fees in the amount of \$7,188.38, for a total of \$26,407.45;
- p. Principal penalty amount of \$2,892, plus interest as of September 12, 2015, in the amount of \$195.85, plus penalties, costs, and fees in the amount of \$1,154.94, for a total of \$4,242.79;
- q. Principal penalty amount of \$130, plus interest as of October 9, 2015, in the amount of \$1.97, plus penalties, costs, and fees in the amount of \$49.45, for a total of \$181.42;
- r. Principal penalty amount of \$312, plus interest as of November 7, 2015, in the amount of \$3.56, plus penalties, costs, and fees in the amount of \$113.86, for a total of \$429.42;
- s. Principal penalty amount of \$300, plus interest as of December 5, 2015, in the amount of \$3.90, plus penalties, costs, and fees in the amount of \$109.66, for a total of \$413.56;
- t. Principal penalty amount of \$243, plus interest as of January 5, 2016, in the amount

of \$3.19, plus penalties, costs, and fees in the amount of \$88.83, for a total of \$335.02;

u. Principal penalty amount of \$824, plus interest as of January 30, 2016, in the amount of \$9.92, plus penalties, costs, and fees in the amount of \$300.89, for a total of \$1,134.81;

v. Principal penalty amount of \$100, plus interest as of March 5, 2016, in the amount of \$1.30, plus penalties, costs, and fees in the amount of \$36.56, for a total of \$137.86;

w. Principal penalty amount of \$200, plus interest as of May 3, 2016, in the amount of \$2.40, plus penalties, costs, and fees in the amount of \$73.03, for a total of \$275.43;

x. Principal penalty amount of \$400, plus interest as of May 28, 2016, in the amount of \$5.44, plus penalties, costs, and fees in the amount of \$146.29, for a total of \$551.73;

y. Principal penalty amount of \$290, plus interest as of July 9, 2016, in the amount of \$5.09, plus penalties, costs, and fees in the amount of \$110.62, for a total of \$405.71;

z. Principal penalty amount of \$600, plus interest as of July 30, 2016, in the amount of \$6.96, plus penalties, costs, and fees in the amount of \$219.01, for a total of \$825.97;

aa. Principal penalty amount of \$212, plus interest as of August 27, 2016, in the amount of \$2.79, plus penalties, costs, and fees in the amount of \$77.50, for a total of \$292.29;

bb. Principal penalty amount of \$238, plus interest as of October 1, 2016, in the amount of \$2.77, plus penalties, costs, and fees in the amount of \$86.88, for a total of \$327.65;

cc. Principal penalty amount of \$1,138, plus interest as of October 29, 2016, in the amount of \$13.21, plus penalties, costs, and fees in the amount of \$415.39, for a total of \$1,566.60;

dd. Principal penalty amount of \$499, plus interest as of December 31, 2016, in the amount of \$5.78, plus penalties, costs, and fees in the amount of \$182.14, for a total of \$686.92;

ee. Principal penalty amount of \$684, plus interest as of January 28, 2017, in the amount of \$8.94, plus penalties, costs, and fees in the amount of \$250.03, for a total of \$942.97;

ff. Principal penalty amount of \$469, plus interest as of February 25, 2017, in the amount of \$6.05, plus penalties, costs, and fees in the amount of \$171.41, for a total of \$646.46;

gg. Principal penalty amount of \$456, plus interest as of April 8, 2017, in the amount of \$8.00, plus penalties, costs, and fees in the amount of \$173.96, for a total of \$637.96;

hh. Principal penalty amount of \$1,112, plus interest as of May 5, 2017, in the amount of \$12.88, plus penalties, costs, and fees in the amount of \$405.88, for a total of \$1,530.76;

ii. Principal penalty amount of \$858, plus interest as of June 12, 2017, in the amount of \$6.63, plus penalties, costs, and fees in the amount of \$201.28, for a total of \$792.91;
and

jj. Principal penalty amount of \$2,370, plus interest as of July 8, 2017, in the amount of \$35.81, plus penalties, costs, and fees in the amount of \$851.40, for a total of \$3,257.21.

6. Defendant has not paid the afore-mentioned civil penalties and other charges despite the fact that the United States has demanded payment from Defendant for the sum due.

WHEREFORE, the United States seeks judgment against Defendant for the total sum of \$107,346.65, plus interest, penalties, costs, and fees as well as the costs expended in maintaining

this action. Notice is hereby given to Defendant that the United States intends to seek satisfaction of any judgment rendered in its favor in this action from any debt accruing.

Respectfully submitted,

J. DOUGLAS OVERBEY
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