CCASE:

SOL (MSHA) V. PHILLIPS URANIUM

DDATE: 19820614 TTEXT: Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR,

CIVIL PENALTY PROCEEDING

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA),

DOCKET NO. CENT 79-282-M DOCKET NO. CENT 80-6-M

PETITIONER

DOCKET NO. CENT 80-6-M
DOCKET NO. CENT 80-124-M

v.

PHILLIPS URANIUM CORPORATION, RESPONDENT

SECRETARY OF LABOR,

CIVIL PENALTY PROCEEDING

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA),

DOCKET NO. CENT 79-281-M

PETITIONER

v.

PHILLIPS URANIUM CORPORATION, RESPONDENT

AND

AMERICAN MINING SERVICE, AS SUBSTITUTE RESPONDENT

DECISION ON REMAND

On April 27, 1982, the Commission issued its final decision vacating all citations and orders and dismissing the petitions for assessment of penalties in each of the above cases except for Docket No. CENT 79-281-M.

That case was remanded to this judge because while the matter was pending upon review, American Mining Service (AMS), an independent contractor, executed a substitution agreement with Phillips Uranium Corporation, (Phillips) the owner-operator. In that agreement, now a part of the record, AMS formally agreed to substitute itself as respondent in this civil penalty proceeding in the place and stead of Phillips. It further paid the full \$48 penalty proposed in that docket number. (The record discloses that a check including that amount was paid to Phillips, which in turn endorsed it to MSHA).

As the original parties and AMS are amenable to the substitution, the Commission remanded CENT 79-281-M with a mandate to dismiss as to Phillips and to substitute AMS. In view of the state of the record, no further proceedings are required. (FOOTNOTE 1)

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Accordingly, AMS is substituted as respondent in the place and stead of the original respondent, Phillips; this proceeding is in all respects dismissed as to Phillips; and the \$48 proposed civil penalty previously paid by AMS is affirmed and assessed against AMS.

SO ORDERED.

John A. Carlson Administrative Law Judge

~FOOTNOTE_ONE

All parties were notified of my intent to issue this summary decision and were offered an opportunity to object. None did.