

CCASE:
SOL (MSHA) V. ENERGY FUELS COAL
DDATE:
19891220
TTEXT:

~2548

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
PETITIONER

CIVIL PENALTY PROCEEDING

Docket No. WEST 88-332
A.C. No. 05-03455-03561

v.

Southfield Mine

ENERGY FUELS COAL, INC.,
RESPONDENT

DECISION

Appearances: Margaret A. Miller, Esq., Office of the Solicitor,
U.S. Department of Labor, Denver, Colorado,
for Petitioner;
Phillip D. Barber, Esq., Welborn, Dufford, Brown
and Tooley, Denver, Colorado,
for Respondent.

Before: Judge Lasher

This proceeding was initiated by the filing of a petition for assessment of penalties by the Secretary of Labor pursuant to Section 110 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. Section 820 (1977) (herein the Act). At the outset of the formal hearing on the record on November 28, 1989, counsel reached an amicable resolution of all 10 enforcement documents (Citations) involved. Pursuant to the agreement of the parties, Section 104(a), Citations numbered 2875361 and 2874012 are to be vacated on the basis of insufficient evidence to support the same. As to 3 of the Section 104(a) Citations, numbered 2874013, 2874015 and 2874032, the "significant and substantial" designations are to be deleted and the initially-proposed assessments (\$68, \$74, and \$74, respectively) are to be paid in full by Respondent. As to the remaining 5 enforcement documents, all likewise are Section 104(a) Citations which are to be affirmed without modification and the initially-proposed penalties therefor are to be paid in full by Respondent as follows:

Citation	Penalty
2874014	\$98
2874017	20
2874020	98
2874029	68
2874030	68

The settlement of the parties is found appropriate and supported in the record, the approval thereof from the bench (T. 8) is here affirmed, and the penalties (totalling \$568) agreed to by the parties are here assessed.

~2549

ORDER

Citations numbered 2875361 and 2874012 are VACATED.

Citations numbered 2874013, 2874015, and 2874032 are MODIFIED to delete the "Significant and Substantial" designations thereon, and are otherwise AFFIRMED.

Citations numbered 2874014, 2874017, 2874020, 2874029 and 2874030 are AFFIRMED.

Respondent, if it has not previously done so, shall pay to the Secretary of Labor within 30 days from the date of this written decision the total penalties hereinabove assessed of \$568.

Michael A. Lasher, Jr.
Administrative Law Judge