

CCASE:
ENERGY FUELS COAL V. SOL (MSHA)
DDATE:
19900313
TTEXT:

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

ENERGY FUELS COAL, INC.,
CONTESTANT

CONTEST PROCEEDING

v.

Docket No. WEST 89-247-R
Order No. 3077162; 4/26/89

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

Southfield Mine
Mine I.D. 05-03455

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

CIVIL PENALTY PROCEEDING

v.

Docket No. WEST 90-8
A.C. No. 05-03455-03575

Southfield Mine

ENERGY FUELS COAL, INC.,
RESPONDENT

DECISION APPROVING SETTLEMENT

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

Before: Judge Lasher

The parties, at the prehearing conference held on-the-record in Denver, Colorado on February 14, 1990, reached a settlement fully resolving the issues in these two related (Penalty and Contest) dockets. Penalty Docket WEST 90-8 contains two enforcement documents, Citation No. 2875336 and a related Section 104(b) Order No. 3077162, which Order is also the subject of Contest Proceeding WEST 89-247-R. Pursuant to their accord, the parties agreed that the "Significant and Substantial" designation on the Citation should be deleted and the \$225 penalty originally proposed by MSHA therefor should be reduced to \$125 based on such modification. As a further part of their settlement, the Section 104(b) (Failure to Abate) Order issued after Citation No. 2875336 is to be vacated. Based on such vacation, Contestant Energy Fuels withdraws its contest in Docket WEST 89-247-R. The approval of settlement issued from the bench (T. 14-18) is here affirmed.

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ORDER

Citation No. 2875336 is MODIFIED to delete the "Significant and Substantial" designation thereon and is otherwise affirmed.

Withdrawal Order No. 3077162 is VACATED.

Docket No. WEST 89-247-R, having been withdrawn, is DISMISSED. Penalty Docket No. WEST 90-8, having been fully resolved, is DISMISSED.

Respondent, if it has not previously done so, shall pay the Secretary of Labor within 30 days from the date hereof the sum of \$125 as and for the civil penalty for Citation No. 2875336 above assessed.

Michael A. Lasher, Jr.
Administrative Law Judge