

CCASE:
SOL (MSHA) V. ENERGY FUELS COAL
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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 90-25
A.C. No. 05-03455-03576

v.

Southfield Mine

ENERGY FUELS COAL
INCORPORATED,
RESPONDENT

DECISION

Appearances: Margaret A. Miller, Esq., Robert J. Murphy, Esq.
Office of the Solicitor, U.S. Department of Labor,
Denver, Colorado,
for Petitioner;
Phillip D. Barber, Esq., Welborn, Dufford, Brown &
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. 820 (1977) (herein the "Act").

This matter was consolidated and scheduled for hearing with two other penalty dockets, WEST 89-440 and WEST 90-52. At the commencement of the hearing on June 12, 1990, an overall settlement had been concluded and was announced covering all three citations involved in this docket. Such settlement agreement was considered and approved from the bench and is here affirmed. The prosecution of Citation No. 3077006 is to be dropped on the basis of insufficient evidence. As to Citations numbered 3077007 and 3077008, the "Significant and Substantial" designations thereon are to be deleted and penalties of \$50 each are to be paid by the Respondent.

ORDER

1. Citation numbered 3077006 is VACATED.
2. Citations numbered 3077007 and 3077008 are MODIFIED to delete the "Significant and Substantial" designations thereon and are otherwise AFFIRMED.
3. Respondent, if it has not previously done so, shall pay to the Secretary of Labor, the total sum of \$100 as and for the civil penalties above specified and here assessed.

Michael A. Lasher, Jr.
Administrative Law Judge