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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 90-52
A.C. No. 05-03455-03577

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 90-25. At the commencement of the hearing on June 12, 1990, a settlement had been concluded and was announced covering all five citations involved. Such settlement agreement was considered and approved from the bench and is here affirmed.

Petitioner's original administrative penalty assessments for the five citations was \$79 each. Pursuant to the settlement, Respondent agrees to pay in full the \$79 assessments for Citations numbered 3077014, 3077065, and 3240478. As to Citations numbered 3077061 and 3077067, Petitioner agrees that the "Significant and Substantial" designations thereon should be deleted and the parties concur as to assessment of \$50 penalty for each.

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ORDER

1. Citations numbered 3077014, 3077065, and 3240478 are AFFIRMED.

2. Citations numbered 3077061 and 3077067 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 \$337 as and for the civil penalties above specified and here assessed for the five subject citations.

Michael A. Lasher, Jr.
Administrative Law Judge