

CCASE:
ENERGY FUELS COAL v. SOL (MSHA)
DDATE:
19910117
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges
THE FEDERAL BUILDING
ROOM 280, 1244 SPEER BOULEVARD
DENVER, CO 80204

ENERGY FUELS COAL, INC.,
CONTESTANT
v.

Docket No. WEST 89-266-R
Citation No. 2873916; 4-17-89

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

Docket No. WEST 89-280-R
Citation No. 2875275; 4-06-89

Docket No. WEST 89-281-R
Citation No. 2875274; 4-06-89

CONTEST PROCEEDINGS

Southfield Mine
Mine I.D. 05-03455

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

CIVIL PENALTY PROCEEDINGS

Docket No. WEST 89-356
A.C. No. 05-03455-03568

Southfield Mine

ENERGY FUELS COAL, INC.,
RESPONDENT

DECISION
ORDER TO PAY
DISMISSAL OF CONTEST CASES

Appearances: Phillip D. Barber, Esq., John S. Cowan, 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 Respondent/Petitioner.

Before: Judge Cetti

The Secretary of Labor, on behalf of the Mine Safety and Health Administration (MSHA), charges Respondent with violating safety regulations promulgated under the Federal Mine Safety and Health Act, 30 U.S.C. 801, et seq. (the "Act").

After notice to the parties, a hearing scheduled for three days commenced in Denver, Colorado, on December 18, 1990. At the hearing, the parties announced they had reached an amicable settlement of all issues not previously settled in the eight remaining citations in Civil Penalty Docket No. 89-356. (FOOTNOTE 1)

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Energy Fuels agrees to pay in full MSHA's initial penalty assessment for the five of the citations in Civil Penalty Docket No. WEST 89-356, as reflected in the summary shown below.

Citation Number	Proposed Penalty	Agreed Disposition
2874086	\$68.00	\$68.00
2874087	\$85.00	\$85.00
2864088	\$68.00	\$68.00
2864090	\$68.00	\$68.00
2873916	\$68.00	\$68.00

Pursuant to this settlement, MSHA seeks modification of Citation Nos. 2874091, 2815274, and 2875275 to delete the "Significant and Substantial" designations thereon, and the parties agree that the penalty should be reduced to \$50.00 each for Citation Nos. 2874091 and 2875274, and reduced to \$61.00 for Citation No. 2875275. Thus the total penalty for the eight citations is \$518.00. The deletion of the "Significant and Substantial" designation was based on insufficient evidence.

In support of their motion, the parties have further submitted information relating to the statutory criteria for assessing civil penalties in 110(i) of the Act.

I have reviewed the proposed settlement and I find it is reasonable and in the public interest. It should be and is APPROVED.

ORDER

1. Citation Nos. 2875274, 2875275, and 2874091 are MODIFIED to delete the designation "Significant and Substantial" and, as so modified, are AFFIRMED.

2. Citation Nos. 2874086, 2874087, 2874088, 2874090, and 2873916 are AFFIRMED.

3. Penalties are ASSESSED in the amounts agreed to by the parties, as shown above, totaling \$518.00.

4. Contest Proceeding Docket Nos. WEST 89-226-R, WEST 89-280-R, and WEST 89-281-R are DISMISSED.

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5. Contestant/Respondent is ORDERED to pay to the Secretary of Labor the sum of \$518.00 within 30 days of the date of this decision and, upon payment, Civil Penalty Proceeding Docket WEST 89-356 is DISMISSED.

August F. Cetti
Administrative Law Judge

FOOTNOTE START HERE

1. Two of the original 10 citations in this penalty docket, Citation Nos. 2840175 and Citation No. 2873917 were vacated by an earlier order.