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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 91-113-M
A.C. No. 05-00516-05545

v.

Black Cloud Mine
Leadville Unit

ASARCO, INCORPORATED,
RESPONDENT

DECISION

Appearances: Robert J. Murphy, Esq., Office of the Solicitor,
U.S. Department of Labor, Denver, Colorado,
for Petitioner;
Earl K. Madsen, Esq., BRADLEY, CAMPBELL, CARNEY &
MADSEN, Golden, Colorado,
for Respondent.

Before: Judge Lasher

In this proceeding the Secretary of Labor (MSHA) seeks assessment of penalties for four violations (described in four Citations) pursuant to Section 110(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 820(a) (1977).

Upon commencement of hearing in Leadville, Colorado, on October 22, 1991, the parties concluded settlement of the entire matter calling for modification and reduction of penalty as to two of the Citations and payment in full of MSHA's proposed penalties for the remaining two Citations. The settlement was proposed on the record at the hearing and my bench decision approving such appears in the transcript and is here AFFIRMED. The terms of the agreed resolution (including the two modifications) and my assessment of penalties appear both on the record and in the Order effectuating the settlement which follows:

ORDER

1. Citations numbered 2643174 and 2643176 are MODIFIED to change paragraph 10 B thereof pertaining to "Gravity" from "Fatal" to "Lost Workdays or Restricted Duty," and are otherwise AFFIRMED.

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2. Respondent, if it has not previously done so, SHALL PAY to the Secretary of Labor within 40 days from the date of this decision the total sum of \$270.00 as and for the civil penalties here assessed as follows: \$115.00 each for Citations numbered 2643174 and 2643176 and \$20.00 each for Citations numbered 3450558 and 3452313.

Michael A. Lasher, Jr.
Administrative Law Judge