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Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No. WEST 85-35  
A.C. No. 24-01458-03502

v.

East Decker Mine

DECKER COAL COMPANY,  
RESPONDENT

DECISION

Appearances: Robert J. Lesnick, Esq., Office of the Solicitor,  
U.S. Department of Labor, Denver, Colorado,  
for Petitioner;  
John S. McCaffrey, Esq., Decker Coal Company,  
Omaha, Nebraska,  
for Respondent.

Before: Judge Lasher

During the hearing in this matter in Sheridan, Wyoming, the parties conferred and reached (on the record) an amicable resolution of this matter calling for assessment of a \$1.00 penalty and preserving the validity of the subject Section 104(d)(1) Citation in all its aspects including the special findings of "Unwarrantable Failure" and "Significant and Substantial".

The Settlement was consummated in the aftermath of unforeseen testimony and the resulting effects on the trial objectives of the parties. Pursuant to the settlement formula, the regulatory agency, MSHA, retains the values of its 104(d)(1) Citation as a foundation in the enforcement scheme of Section 104(d)(1) in return for which the Respondent is assessed what amounts to a token penalty.

In the premises, the settlement is found to be reasonable and proper and is approved.

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ORDER

(1) Respondent, if it has not previously done so, shall pay the Secretary of Labor the sum of \$1.00 within 30 days from the date hereof.

(2) Citation No. 2222731 dated November 7, 1984 is affirmed.

Michael A. Lasher, Jr.  
Administrative Law Judge