

CCASE:  
ENERGY FUELS COAL V. MSHA,  
MSHA V. ENERGY FUELS COAL  
DDATE:  
19900313  
TTEXT:

FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
DENVER, COLORADO  
March 13, 1990

ENERGY FUELS COAL, INC.,  
Contestant

CONTEST PROCEEDING

v.

Docket No. WEST 89-255-R  
Citation No. 2875334;4/25/89

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

Southfield Mine  
Mine I.D. 05-03455

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

CIVIL PENALTY PROCEEDING

v.

Docket No. WEST 89-434  
A.C. No. 05-03455-03571

Southfield Mine

ENERGY FUELS COAL, INC.,  
Respondent

DECISION APPROVING PARTIAL SETTLEMENT

Appearances: Phillip D. Barber, 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 Petitioner/Respondent.

Before: Judge Lasher

At a prehearing conference held on-the-record in Denver, Colorado, on February 14, 1990, the parties reached an amicable resolution as to Citation No. 2875334 - one of 20 enforcement documents involved in Penalty Docket WEST 89-434. On the basis of a reduced evaluation of the gravity of the violation and a modification of Section 10(D) of the Citation, the parties agreed that a penalty of \$100 rather than the original assessment of \$168 was appropriate and moved for approval of such settlement (T. 26). This motion and Energy Fuels' corollary motion to withdraw its contest in Docket No. WEST 89-255-R were approved from the bench and such ruling (T. 25-26) is here affirmed.

ORDER

1. Contestant/Respondent Energy Fuels, if it has not previously done so, shall pay the Secretary of Labor within 30 days from the date hereof, the sum of \$100 as and for a civil penalty for Citation No. 2875334.

2. Section 10(D) of Citation No. 2875334 is MODIFIED to show the "Number of Persons Affected" by the violation to be "1" rather than "2", "7" or any other number.

3. Contest Docket No. WEST 89-255-R is DISMISSED.

4. Penalty Docket No. WEST 89-434 will remain on the Judge's docket pending resolution of the remaining Citations contained therein.

Michael A. Lasher, Jr.  
Administrative Law Judge

Distribution:

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