

CCASE:  
SOL (MSHA) v. ENERGY FUELS MINING  
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

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

v.

ENERGY FUELS MINING COMPANY,  
RESPONDENT

CIVIL PENALTY PROCEEDING

Docket No. WEST 90-91  
A.C. No. 05-03771-03520

Raton Creek Mine No. 1

DECISION

Appearances: Margaret A. Miller, 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 Cetti

This is a civil penalty proceeding initiated by the  
Petitioner against the Respondent pursuant to Section 110(a) of  
the Federal Mine Safety and Health Act of 1977, 30 U.S.C.  
820(a). Petitioner seeks civil penalty assessments for alleged  
violations of mandatory safety standards 30 C.F.R. 75.1704 and  
70.400. Respondent filed a timely answer contesting the alleged  
violations. Pursuant to notice to the parties, a hearing was held  
in Denver, Colorado, on December 18, 1990. At the hearing, the  
parties announced they had reached an amicable settlement of all  
matters at issue.

Citation No. 2931280 was issued as an S&S violation of 30  
C.F.R. 75.1704 with a \$74.00 proposed civil penalty. Pursuant  
to their proposed agreement, the Secretary amended the citation  
to delete the S&S characterization of the violation and amended  
the proposed penalty to \$50.00. The Secretary based her  
amendments upon insufficient evidence to prove the violation was  
"Significant and Substantial." Respondent withdrew its objection  
to the citation and penalty as amended.

Citation No. 2340524 alleges an S&S violation of 30 C.F.R.  
75.400 and has a proposed penalty of \$54. At the hearing,  
Respondent withdrew its contest to the citation as originally  
issued and to the Secretary's original proposed penalty of  
\$54.00.

~122

This settlement disposition was considered and approved.  
It is found reasonable and in the public interest.

ORDER

1. Citation No. 2931280 is MODIFIED to delete the  
"Significant and Substantial" designations and, as so modified,  
is AFFIRMED. A penalty of \$50.00 is ASSESSED.

2. Citation No. 3412632, alleging a violation of 30 C.F.R.  
75.400, including its finding that the violation was "Significant  
and Substantial," is AFFIRMED, and a civil penalty of \$54.00 is  
ASSESSED.

3. Respondent is directed to pay \$104.00 to the Secretary of  
Labor within 30 days of the date of this decision, as a civil  
penalty for the violations found herein. Upon payment, this  
proceeding is DISMISSED.

August F. Cetti  
Administrative Law Judge