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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 89-28
A.C. No. 05-03455-03562

v.

Southfield Mine

ENERGY FUELS COAL, INC.,
RESPONDENT

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
and Tooley, Denver, Colorado,
for Respondent.

Before: Judge Lasher

This proceeding was initiated by the filing of a petition for assessment of penalties by the Secretary of Labor pursuant to Section 110 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. Section 820 (1977) (herein the Act). At the commencement of hearing a settlement was consummated and announced by the parties resolving all three enforcement documents involved. Pursuant to the agreement reached, Section 104(a) Citation No. 2873988 is to be modified to delete the "significant and substantial" designation on the face thereof and Respondent is to pay in full the initially-assessed penalty of \$68; Section 104(d)(1) Citation No. 2873989 is to be affirmed and Respondent is to pay in full the initially-assessed penalty of \$700; and as to the third enforcement document, Section 104(d)(1) Order No. 2873990, such is to be modified to a Section 104(a) Citation and the penalty reduced from \$800 to \$400. The approval of the settlement from the bench (T. 5-6) is here affirmed, the settlement is found appropriate and supported in the record, and the penalties agreed to by the parties are here assessed.

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ORDER

Citation No. 2873988 is modified to delete the "significant and substantial" designation thereon.

Order No. 2873990 is modified to change its nature and issuance authority from a Section 104(d)(1) Withdrawal Order to a Section 104(a) Citation.

Respondent, if it has not previously done so, shall pay to the Secretary of Labor within 30 days from the date of this written decision the total penalties herein assessed of \$1168.

Michael A. Lasher, Jr.
Administrative Law Judge