

CCASE:
SOL (MSHA) V. HELVETIA COAL
DDATE:
19860407
TTEXT:

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. PENN 86-43
A.C. No. 36-00917-03607

v.

Lucerne No. 6

HELVETIA COAL COMPANY,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Secretary of Labor has moved for an approval of the settlement reached in this case with the operator. The original assessed penalty was for \$900. The proposed settlement is for \$600.

One violation is involved. On August 26, 1985, a Mine Safety and Health Administration inspector discovered that there were no self-rescuer devices stored in the No. 4 intake entry, the designated intake escapeway for this mine. The inspector issued Citation No. 2406371, charging a violation of 30 C.F.R. 75.1101-23. Section 75.1101-23 provides, in part, that an operator submit a plan for emergency evacuation procedures with its local MSHA District Manager. Section 75.1714-2(e) provides that this plan for emergency evacuation procedures may assign an area where the self-rescuer devices are to be stored. This section applies when the self-rescuers are to be stored more than 25 feet away from where the miners are working. In this case the assigned area was the No. 4 intake entry. The self-rescuers had been stored, instead, in an area known as the "kitchen," where the miners took their breaks and stored their personal items. After the citation was issued, the self-rescuers were immediately moved to the proper intake escapeway.

The violation was serious. In an emergency, the miners might have difficulty locating their self-rescuers. However, the Solicitor advises that in this case the miners were aware that the self-rescuers were stored in the kitchen. The kitchen was in an air-intake area and it was the designated gathering point for miners in case of emergency before entering the intake escapeway. Accordingly, gravity is somewhat less than originally thought and the recommended settlement remains a substantial amount which accords with the statutory purposes. I also determine that the settlement is proper in light of the rest of the criteria in section 110(i) as represented by the Solicitor.

~525

Accordingly, the proposed settlement is Approved and the operator is ORDERED TO PAY \$600 within 30 days of this decision.

Paul Merlin
Chief Administrative Law Judge