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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. PENN 86-193  
A.C. No. 36-00917-03625

v.

Lucerne No. 6

HELVETIA COAL COMPANY,  
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Merlin

The Solicitor has filed a motion to approve settlements of the two violations involved in this case. The originally assessed penalty for each violation was \$750, for a total of \$1,500. The proposed settlement for each violation is for \$425, for a total of \$850.

Citation No. 2695543 was issued for violation of 30 C.F.R. 75.301 because an excessive amount of methane was detected in the mine. Citation No. 2696487 was issued, also for violation of 30 C.F.R. 75.301, because an inadequate amount of oxygen was detected in the mine.

The Solicitor's motion discusses both violations in light of the six statutory criteria set forth in section 110(i) of the Federal Mine Safety and Health Act of 1977. The Solicitor represents that a reduction in the proposed penalties is justified because both gravity and negligence were less than originally thought. The violations were detected during a preshift examination following a weekend shutdown of the mine. The problems had developed during the 48-hour shut-down period when no miners were in the mine and the operator was not required to make preshift examinations. The Solicitor also represents that the methane accumulation took place in an area where none had been before.

The representations and recommendations of the Solicitor are accepted.

Accordingly, the motion to approve settlements is GRANTED and the operator is ORDERED TO PAY \$850 within 30 days of the date of this decision.

Paul Merlin  
Chief Administrative Law Judge

