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SOL (MSHA) V. HICKORY COAL  
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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. PENN 90-52  
A.C. No. 36-07783-03515

v.

Slope No. 1 Mine

HICKORY COAL COMPANY,  
RESPONDENT

DECISION

Appearances: Susan M. Jordan, Esq., Office of the Solicitor,  
U.S. Department of Labor, Philadelphia,  
Pennsylvania, for the Petitioner;  
Mr. William Kutsey, Owner, Hickory Coal Company,  
Pine Grove, Pennsylvania, pro se, for the  
Respondent.

Before: Judge Fauver

This is an action for civil penalties under 105(d) of the  
Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et  
seq.

The case came on for hearing at Harrisburg, Pennsylvania, on  
November 1, 1990. After extensive testimony and the admission of  
documentary evidence, a settlement conference was held between  
the parties and before the judge. Based upon the conference, a  
settlement was reached and approved by the judge.

ORDER

WHEREFORE IT IS ORDERED that:

1. The parties' oral motion to approve a settlement  
agreement is GRANTED.

2. Respondent is ASSESSED a civil penalty of \$100 for each  
of the two citations involved herein and shall pay such penalties  
of \$200 within 30 days of this decision.

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3. Citation No. 267748 and Order No. 2677021 are AFFIRMED.

4. Citation No. 2676999 is AFFIRMED.

5. Order No. 2677042 is MODIFIED to provide that: "The Michigan front-end loader, Model No. 55a, is permitted to be used for loading run of mine coal only; and all use of the front-end loader shall be confined to the loading area." As so modified, Order No. 2677042 is AFFIRMED.

William Fauver  
Administrative Law Judge