

F A X C O V E R S H E E T

0004

FABIAN & CLENDENIN,
a Professional Corporation

cc: JWB orig
JPB to file
D/A
PGJ
JCH
4-15-94

FAX NUMBERS:

SENT FROM: XX (801) 596-2814 - 12TH FLOOR
 (801) 532-3370 - 13TH FLOOR
 (801) 531-1716 - 11TH FLOOR

Telephone: (801) 531-8900

Street Address:

Mailing Address:

Twelfth Floor
215 South State Street
Salt Lake City, UT 84111

P.O. Box 510210
Salt Lake City, UT 84151

TO: James Learter

DATE: 4-15-94

FAX NUMBER: 359-3940

TIME: _____

FROM: Denise Drago

TOTAL NUMBER OF PAGES, INCLUDING COVER 3

COMMENTS: _____

IF YOU DO NOT RECEIVE ALL PAGES OR HAVE ANY PROBLEMS RECEIVING,
PLEASE CALL (801) 531-8900 AND ASK FOR:

Julie McKenzie

THE INFORMATION CONTAINED IN THIS FAX MESSAGE IS INTENDED ONLY FOR THE
PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS
MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND
CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR
AN AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE
HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY
REVIEW, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY
PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY
US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL.
THANK YOU.

FABIAN & CLENDEINA PROFESSIONAL CORPORATION
ATTORNEYS AT LAWTWELFTH FLOOR
215 SOUTH STATE STREET
P.O. BOX 510210
SALT LAKE CITY, UTAH 84151
TELEPHONE (801) 531-8900
FACSIMILE (801) 596-2814OF COUNSEL
PETER W. BILLINGS, SR.
RALPH H. MILLERNEVADA OFFICE
KEVIN N. ANDERSON2895 SOUTH JONES BLVD., SUITE 5
LAS VEGAS, NEVADA 89102
TELEPHONE (702) 367-4545
FACSIMILE (702) 252-6014GEORGE D. MELLING, JR.
WARREN PATTEN
M. BYRON FISHER
STANFORD B. OWEN
WILLIAM H. ADAMS
ANTHONY L. RAMPTON
PETER W. BILLINGS, JR.
THOMAS CHRISTENSEN, JR.
DENISE A. DRAGOO
JAY B. BELL
DANIEL W. ANDERSON
GARY E. JUBBER
ROSEMARY J. BELESS
ANNA W. DRAKE
W. CULLEN BATTLE
KEVIN N. ANDERSONRANDY K. JOHNSON
NORMAN J. YOUNKER
MICHELE MITCHELL
JOHN E. S. ROBSON
DOUGLAS B. CANNON
DOUGLAS J. FAYNE
ROBERT PALMER REES
DIANE H. BANKS
P. BRUCE BADGER
JOHN (JACK) D. RAY
KATHLEEN H. SWITZER
CRAIG T. JACOBSEN
BRUCE D. REEMSNYDER
BROCK R. BELNAP
DOUGLAS R. BREWER
CRAIG E. HUGHES**VIA FACSIMILE**

April 15, 1994

(801) 359-3940

James M. Carter
Director
UTAH DIVISION OF OIL, GAS & MINING
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203RE: Belina Mine Complex Notice of Violation No. 94-39-2-1 ("NOV");
Request for Informal Conference on Fact of Violation; Request for
Extension of Time to Abate

Dear Jim:

On behalf of White Oak Mining & Construction Company, Inc. ("White Oak"), operator, Belina Mine Complex ACT/007/001, we respectfully request an immediate informal conference with you regarding fact of violation of the above-stated NOV. In addition, White Oak requests an extension in the abatement time pending the informal conference.

The NOV requires White Oak to immediately cease blowing snow onto the outslope of permittee's haul road (remedial action violation 1 of 1 (a)). The Belina Mine Complex receives heavy snowfall during the spring and must clear the haul road to access the Mine. White Oak's practice of clearing snow and depositing blown snow on the outslopes follows the same procedure which was employed by the former operator and approved in the past by the Division. In addition, White Oak requests an extension in the abatement period required by violation 1 of 1 (c) which currently requires White Oak to install interim sediment control along that portion of Eccles Creek affected by deposition of material on the outslope of the haul road by no later than 5:00 p.m. today. The permittee's haul road is a

LAW OFFICES OF
FABIAN & CLENDENIN
A PROFESSIONAL CORPORATION

James M. Carter
April 15, 1994
Page 2

paved asphalt road and the operator disputes the Division's conclusion that deposition of material on the outslope of the haul road through snowblowing activities requires sediment control. Finally, the operator requests an extension of time in which to perform the remedial action set forth at violation 1 of 1 (b) requiring the operator to remove deposited material from the outslope of the haul road. This remedial action requires White Oak to remove thousands of tons of snow currently deposited along the outslopes of the haul road. This action is unreasonable and unenforceable.

Pursuant to R645-400-324, the Division Director has the authority to extend the time set for abatement of the NOV. White Oak requests an extension in the abatement time regarding all remedial action under the NOV to allow White Oak to meet with the Division in an informal hearing to review the fact of the violation. This informal hearing should be scheduled as soon as possible and may be held by telephonic conference if necessary. In the event that the abatement time is not immediately extended, White Oak will seek temporary relief from the Board and/or injunctive relief from District Court to allow snow removal activities necessary to insure safe access to the Mine.

Please call me as soon as possible regarding this matter.

Very truly yours,



Denise A. Dragoo

DAD:jmc:23410

cc: Steve Tanner
Mike Gipson
Todd Kiscaden
Scott Kiscaden
John Kirkham, Esq. (Valley Camp)