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Person
Company BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES State of Utah.

Date Sent: 04/26/1994

Explanation: AMENDED FINDINGS, CONCLUSIONS,
AND ORDER

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BEFORE THE DIVISION OF OIL GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE APPEAL : AMENDED FINDINGS,
OF VIOLATION N94-39-2-1, : CONCLUSIONS, AND
VALLEY CAMP OF UTAH, INC., : ORDER
BELINA MINE, ACT/007/001, :
CARBON COUNTY, UTAH : CAUSE NO. ACT/007/001

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On Tuesday, April 26, 1994, the Division of Oil, Gas and Mining ("Division") held an informal hearing at the request of White Oak Mining and Construction Company, Inc. ("White Oak") concerning the fact of violation for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding: James W. Carter, Director
Division of Oil, Gas and Mining

Petitioner: Steve Tanner, Mining Engineer
("White Oak") White Oak Mining & Construction

Denise Dragoo, Esq.
Fabian and Clendenin

David Hansen, Consultant
Hansen, Allen, & Luce

Division: Steve Demczak
Reclamation Specialist
Issuing Inspector

Scott Milovich
Reclamation Specialist

Pete Hess
Reclamation Specialist

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Joe Helfrich
Sr. Reclamation Specialist

Tom Mitchell, Esq.
Legal counsel for the Division

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.
2. Notice of Violation N94-39-2-1 was written by Steve Demczak on April 12, 1994, for failure to minimize disturbances to the prevailing hydrologic balance, and for failure to convey road drainage only as described in the approved mining and reclamation plan. (Deposition of road drainage onto the outslope of the haul road prior to conveyance through the approved road drainage design system.) In accordance with Utah Code Ann. 1953 et seq. § 40-10-18 (ii)(k), and Utah Admin. R. 645-300-142, R. 645-300-143, R. 645-301-752.220, and R. 645-301-752.240. The Notice of Violation was written in reference to the outslope of the Belina haul road leading from Eccles Canyon Highway 264 to the Belina Mine site.
3. On March 17, 1994, Reclamation Specialists Steve Demczak and Scott Milovich conducted a visual inspection of the outslope of the Belina haul road leading from Eccles Canyon Highway 264 to the Belina No. 1 Mine.
4. The operator ("White Oak") for the permittee ("Valley Camp of Utah, Inc.") deposited snow containing solid materials onto the outslope of the Belina haul road, both inside and outside the disturbed area boundary, and both

inside and outside the stream buffer zone for Eccles Creek, as evidenced by testimony of the operator and photographs presented by the Division staff.

5. Samples of water draining from the materials deposited onto the outslope of the Belina Mine haul road and into Eccles Creek contained suspended solids at concentrations of 13,000 mg/l and 27,700 mg/l.

6. The permittee's approved mining and reclamation plan does not provide for the deposition of snow or solid materials onto the outslope of the Belina haul road.

7. Neither the disturbed area boundary nor the buffer zone for Eccles Creek are marked on the ground in the area of the NOV. However, the evidence presented at the informal conference and the information contained in the Division's files demonstrate that the impacts of the activities described in Notice of Violation N94-39-2-1 extend beyond the permittee's disturbed area and into the buffer zone for Eccles Creek.

CONCLUSIONS OF LAW

1. "Precipitation Event" is defined at R. 645-100-200 as "a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in the R. 645 rules, precipitation event also includes that quantity of water emanating from snow cover as snow melt in a limited period of time."

2. Utah Code Ann. 1953 et seq. § 40-10-18 (ii)(k) provides that each permit issued pursuant to Chapter 10, and relating to underground coal mining, must require the operator to minimize disturbances of the prevailing

hydrologic balance at the mine site, and associated off-site areas, and to the quality and quantity of water in surface and groundwater systems, during and after coal mining operations and during reclamation, by conducting surface mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area. In no event shall these contributions be in excess of requirements set by applicable state or federal law.

3. Utah Admin. R. 645-300-142, R. 645-300-143, R. 645-301-752.220, and R. 645-301-752.240 require that the permittee conduct all coal mining and reclamation operations only as described in the approved application, except to the extent that the Division otherwise directs, and that the permittee will comply with the terms and conditions of the permit, all applicable performance standards, and requirements of the state program. Additionally, the permittee is required to control or prevent additional contributions of suspended solids to streamflow or runoff outside the permit area, and to minimize the degradation of the quality or quantity of surface and groundwater systems.

4. The activities of the permittee described at the informal conference constitute violations of the statutory and regulatory requirements of the sections cited in paragraphs 2 and 3 above.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N94-39-2-1 is upheld.

2. The permittee (Valley Camp of Utah, Inc.) and its agents shall immediately cease the deposition of snow and other materials outside the disturbed area.

3. The permittee shall immediately install interim sediment control measures to minimize the contribution of suspended solids already deposited on the Belina Road outslope to Eccles Creek.

4. The permittee shall amend the approved mining and reclamation plan to include a revised drainage control or snow removal plan for the Belina haul road, designed to prevent the deposition or migration of solid materials outside the disturbed area boundaries, and into the stream buffer zone for Eccles Creek, and to address remediation of any deleterious materials already deposited within the stream buffer zone of Eccles Creek. The revised plan shall be submitted to the Division no later than June 30, 1994.

5. The petitioner may appeal this Order of determination fact of violation to the Board of Oil, Gas and Mining within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including the requirement to place the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 17th day of May, 1994.


James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing AMENDED FINDINGS, CONCLUSIONS, AND ORDER for Cause No. ACT/007/001 to be mailed by certified mail, postage prepaid, on the 17th day of May 1994, to the following:

Mr. James Litman
Valley Camp of Utah, Inc.
Scofield Route
Helper, Utah 84526

Mr. Steve Tanner
White Oak Mining and Construction Company, Inc.
P.O. Box 60
Helper, Utah 84526

Denise Dragoo, Esq.
Fabian and Clendenin
215 South State Street
P.O. Box 510210
Salt Lake City, Utah 84151

A handwritten signature in cursive script, reading "Janean Burns", is written over a horizontal line.