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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 OF FACT OF VIOLATION CO95-32-1-2 AND N95-32-3-2, WHITE OAK MINING AND CONSTRUCTION CO. INC., WHITE OAK MINE, CARBON COUNTY, UTAH	: : : : : :	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CAUSE NO. ACT/007/001
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On February 15, 1996, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation of the Failure to Abate Cessation Order ("FTACO") referred to above, issued to White Oak Mining and Construction Co., Inc.

The following individuals attended:

- Presiding: James W. Carter
Director
- Petitioner: Denise Dragoo
Steve Tanner
- Division: Joe Helfrich

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. The Assessment Conference, to review the proposed penalties for NOV N95-32-3-2, was held immediately following the informal hearing regarding fact of violation of the FTACO. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.
3. An informal conference concerning the fact of violation of N95-32-3-2, parts 1 and 2, was held on August 4, 1995. Part 1 was upheld and part 2 was vacated by Order dated August 9, 1995 (the "Order"). That Order did not make conclusions of law with regard to the appropriateness of CO95-32-1-2, although it did make factual findings regarding the CO. The proposed assessment for N95-32-3-2 part 1 was issued on January 18, 1996, scoring 30 negligence points in the body of the assessment, but registering only 20 negligence points in the summary total of points.
4. The permittee testified that it had delivered the required monitoring information to the Utah Department of Environmental Quality, and that it believed that submittal to DEQ was sufficient under the terms of its mining permit.

CONCLUSIONS OF LAW

1. Abatement of part 1 was due in the Offices of the Division by the close of business on July 25, 1995, but was not received until July 26, 1995. That late delivery constitutes a failure to timely abate the underlying NOV.
2. Permittee's belief that submittal of the required information to DEQ was not reasonable in light of the long-standing past practice of the permittee to submit the information

to the Division, and in light of the terms of the permit itself and was therefore reckless, but not knowing or intentional.

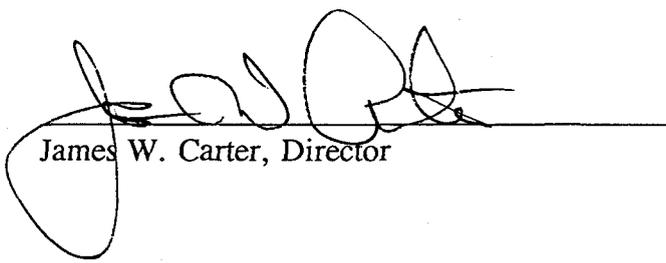
ORDER

NOW THEREFORE, it is ordered that:

1. CO95-32-1-2 is upheld.
2. The negligence points assessed are adjusted to 20 in both the body of the assessment document and the total.
3. The finalized assessment of \$1,000 resulting from the Assessment Conference of February 15, 1996, is due and payable to the Division 30 days from the date of this Order.
3. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 31st day of May, 1996.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING


James W. Carter, Director

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER and a FINALIZED ASSESSMENT for Cause No. ACT/007/001 to be mailed postage prepaid, this 11 day of June, 1996, to the following

Denise Dragoo, Esq
Van Cott, Bagley, Cornwall & McCarthy
50 South Main Street, Suite 1600
Salt Lake City, UT 84144

Steven Tanner
White Oak Mining & Construction
Scofield Route
Helper, UT 84526





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

ACT/007/001
#2

June 26, 1995

Art Abbs, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Re: Bond Reduction Amendment, White Oak Mining and Construction Co. Inc.,
White Oak Mine #1 and White Oak Mine #2, ACT/007/001-95A, Folder #2,
Carbon County, Utah

Dear Mr. Abbs:

Enclosed please find the text for the White Oak Mine #1 White Oak Mine #2 relative to the reduction of the reclamation cost estimate, effective June 20, 1995, to \$3,398,000 by optimizing reclamation methods. This reclamation cost estimate includes Appendix R3, Reclamation Plan (pages R-3, 10, 36, and 37) and Table R4, Reclamation Cost Summary.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

Enclosure

cc: Chief of Federal Program, OSM-WRCC
M. Bailey, BLM, Price
J. Kaiser, Manti La Sal Forest
M. Page, Water Rights, Price
B. Bradford, DEQ
R. Valentine, DWR
Price Field Office