

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

---ooOoo---

IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION N95-39-1-2,		AND ORDER
WHITE OAK MINING AND	:	
CONSTRUCTION COMPANY		CAUSE NO. ACT/007/001

---ooOoo---

On April 25, 1995, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation and the assessment of penalties issued to White Oak Mining and Construction Company for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding: Jim Carter
Director

Petitioner: Denise Dragoo,
Steve Tanner

Division: Joe Helfrich
Steve Demczak

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 N95-39-1-2 was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending

this decision upon the informal review of fact of violation and assessment of penalties.

3. Part 1 of 2 of the violation was written for "Failure to place and store non-coal waste in a controlled manner in a designated portion of the permit area." The petitioner did not contest the fact that non-coal waste was improperly placed, but offered mitigating circumstances in that the violation was abated the same day it was cited.

4. Part 2 of 2 of the violation was written for "Failure to maintain D7-B [a diversion ditch] and having snow from pad area in D18-A [another diversion ditch] and equipment within D18-A. The petitioner did not contest the fact of this part of the violation, but also offered the mitigation that the violation was abated the same day it was written.

CONCLUSIONS OF LAW

1. The events confirmed at the informal conference constitute violations of the Utah regulatory program.

2. Abatement of both violations was easy abatement which was completed immediately following issuance of the violations, and the petitioner is entitled to 15 good faith points on each part of the violation.

ORDER

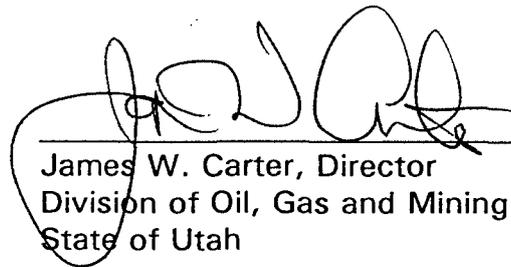
NOW THEREFORE, it is ordered that:

1. NOV N95-39-1-2 parts 1 and 2 are upheld.

2. The finalized assessments, as adjusted for good faith points as provided herein, 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 27 day of April, 1995.



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 FINDINGS, CONCLUSIONS AND ORDER for Cause No. ACT/007/001 to be mailed first class, postage prepaid, on the 2 day of May, 1995, to the following:

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

Steve Tanner
White Oak Mining & Construction
Scofield Route
Helper, Utah 84526