



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)

June 4, 1996

CERTIFIED RETURN RECEIPT REQUESTED  
P 074 979 417

Mark Wayment, Mine Manager  
White Oak Mining & Construction Co. Inc.  
Scofield Route  
Helper Utah 84526

Re: Finalized Assessment for State Violations #N95-32-3-2, and  
CO95-32-1-2, White Oak Mining and Construction, White Oak  
Mine, ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Wayment:

The civil penalties for the above-referenced violations have been finalized. These assessments have been finalized as a result of a review of all pertinent data and facts including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalties must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,

Joseph C. Helfrich  
Assessment Conference Officer

blb  
Enclosure  
cc: James Fulton, OSM  
H:I&E\final



**WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE White Oak Mining/ White Oak Mine

NOV # N95-32-3-2

PERMIT# ACT/007/001

VIOLATION 1 OF 2

Assessment Date 06/04/96

Assessment Officer James W. Carter

Date of Termination :08/22/95

Nature of Violation: Failure to comply with the terms and conditions of approved permit.

|     |                               | <u>Proposed<br/>Assessment</u> | <u>Final<br/>Assessment</u> |
|-----|-------------------------------|--------------------------------|-----------------------------|
| (1) | History/Previous Violations   | —                              | —                           |
| (2) | Seriousness                   |                                |                             |
|     | (a) Probability of Occurrence | <u>30</u>                      | <u>30</u>                   |
|     | Extent of Damage              | —                              | —                           |
|     | (b) Hindrance to Enforcement  | —                              | —                           |
| (3) | Negligence                    | <u>20</u>                      | <u>20</u>                   |
| (4) | Good Faith                    | -                              | -                           |
|     | Total Points                  | <u>50</u>                      | <u>50</u>                   |
|     | TOTAL ASSESSED FINE           |                                | <u>\$1000.00</u>            |

**NARRATIVE:**

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Bib  
h:i&e/faf

WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS  
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE White Oak Mining/White Oak Mine CO # 95-32-1-2

PERMIT # ACT/007/001 VIOLATION 1 OF 2

Nature of the Cessation Order: Failure to abate violation N95-32-3-2 1/2

Date of Abatement of Cessation Order: July 26, 1995

Date of Receipt of Cessation Order: July 26, 1995 via fax

List the days of Failure to Abate: July 26, 1995

Number of Days x \$750.00/day = TOTAL ASSESSED FINE: \$750.00

Assessment Date 6/4/96

Assessment Officer: Joseph C. Helfrich

       Proposed Assessment        \$750.00 Final Assessment

blb  
H:i&e\cof

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

---oo0oo---

|                                  |   |                       |
|----------------------------------|---|-----------------------|
| IN THE MATTER OF THE APPEAL OF   | : |                       |
| FACT OF VIOLATION CO95-32-1-2    | : | FINDINGS OF FACT,     |
| AND N95-32-3-2, WHITE OAK MINING | : | CONCLUSIONS OF LAW    |
| AND CONSTRUCTION CO. INC.,       | : | AND ORDER             |
| WHITE OAK MINE, CARBON           | : |                       |
| COUNTY, UTAH                     | : |                       |
|                                  | : | CAUSE NO. ACT/007/001 |
|                                  | : |                       |

---oo0oo---

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.

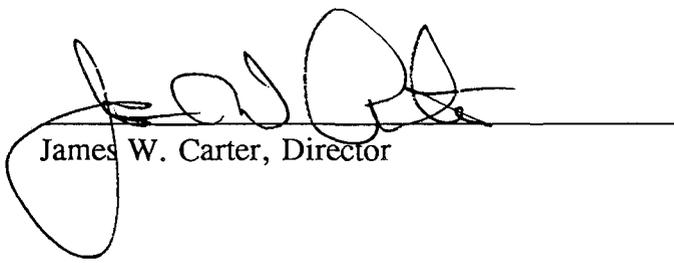
ORDER

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 31<sup>st</sup> 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 JUN, 1996, to the following:

Denise Drago, 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

Brandi Burt

P 074 979 430

**RECEIPT FOR CERTIFIED MAIL**

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

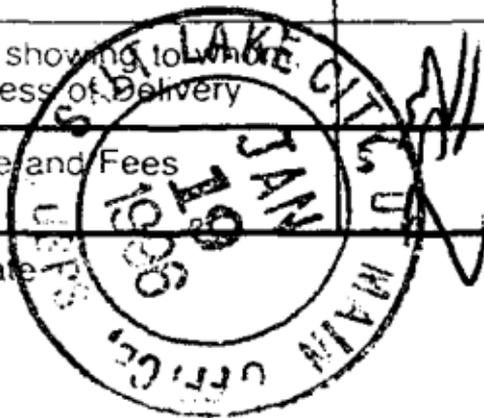
*(See Reverse)*

(MT-DOGM)

C-95-32-1-2

ACT/007/001 JAN 18, 1996

|                                                               |   |
|---------------------------------------------------------------|---|
| Sent to <b>MARK WAYMENT</b>                                   |   |
| Street and No<br><b>WHITE OAK MINING &amp; CO</b>             |   |
| P.O., State and ZIP Code<br><b>HELPER, UT 84526</b>           |   |
| Postage                                                       | S |
| Certified Fee                                                 |   |
| Special Delivery Fee                                          |   |
| Restricted Delivery Fee                                       |   |
| Return Receipt showing to whom and Date Delivered             |   |
| Return Receipt showing to whom, Date, and Address of Delivery |   |
| TOTAL Postage and Fees                                        |   |
| Postmark or Date                                              |   |





State of Utah  
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3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
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801-359-3940 (Fax)  
801-538-5319 (TDD)

January 18, 1996

CERTIFIED RETURN RECEIPT  
P 074 979 430

Mark Wayment  
Mine Manager  
White Oak Mining & Construction Inc.  
Scofield Route  
Helper, Utah 84526

Re: Proposed Assessment for State Violation No. C-95-32-1-2, White Oak Mining & Construction Inc., White Oak Mine, ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Wayment:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under **R645-401**.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Henry Sauer on July 26, 1995. Rule R645-401-600 et. Sec., has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of a penalty.

Under **R645-401-700**, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the Assessment Conference will be scheduled immediately following that review.



Page 2  
N-C95-32-1-2  
ACT/007/001  
January 18, 1996

**If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.**

Sincerely,

  
Joseph C. Helfrich  
Assessment Officer

mt  
Enclosure  
cc: James Fulton, OSM  
a:007001.wcm

**WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE White Oak Mining & Construction Inc. / White Oak Mine CO # C-95-32-1-2

PERMIT # ACT/007/001

VIOLATION 1 OF 2

Nature of the Cessation Order:

Failure to abate Violation N95-32-3-2 / Number 1 of 2

Date of Abatement of Cessation Order: July 26, 1995

Date of Receipt of Cessation Order: July 26, 1995 via fax

List the days of Failure to Abate: July 26, 1995

Number of Days x \$750.00/day = TOTAL ASSESSED FINE: \$750.00

Assessment Date: January 11, 1996

Assessment Officer: Joseph C. Helfrich

Proposed Assessment \$750.00

Final Assessment \$750.00