



**CASTLE  
GATE**  
COAL COMPANY

*fib* CC: DR. NELSON  
LP BRAXTON  
J CHELFRIK  
ACT/007/004

**RECEIVED**  
JUL 20 1989

DIVISION OF  
OIL, GAS & MINING

July 19, 1989

Board of Oil, Gas & Mining  
3 Triad Center, Suite 350  
Salt Lake City, UT 84180-1203

Dear Sir:

Enclosed is a Petition on behalf of Castle Gate Coal Company requesting temporary relief and a hearing on Notice of Violation N89-31-1-2 and N89-31-2-1.

If you have any questions, please feel free to contact me.

Sincerely,

*D.C. Ewigleben SRY*

Donald C. Ewigleben  
Manager, Regulatory Affairs  
(317) 266-1946

SRY/DCE/clt  
W05.3605

Enclosure

cc: Richard Allison  
Lowell Braxton  
Tom McKenna  
Barbara Roberts

BEFORE THE BOARD OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES

STATE OF UTAH

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IN THE MATTER OF THE PETITION  
OF CASTLE GATE COAL COMPANY FOR  
REVIEW AND HEARING ON NOTICES  
OF VIOLATION N89-31-1-2  
AND N89-31-2-1 AND FOR  
TEMPORARY RELIEF FROM NOTICE  
OF VIOLATION N89-31-2-1

PETITION

DOCKET NO. \_\_\_\_\_

CAUSE NO. ACT/007/004

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Pursuant to Utah Code Ann. Section 40-1-20(2) (1981 and Supp. 1987) UMC 845.19 and UMC 843.16(c) of the Utah Mining and Reclamation Permanent Program, Castle Gate Coal Company ("Petitioner") files this Petition for review and hearing and temporary relief before the Board of Oil, Gas and Mining. Petitioner contests the facts of violations cited in NOV N89-31-1-2 (both counts) and N89-31-2-1. Petition also requests temporary relief from N89-31-2-1 until the Board has an opportunity to conduct a hearing and make a decision on the facts of violations on N89-31-1-2 and N89-31-2-1.

In support of the Petition, Petitioner alleges:

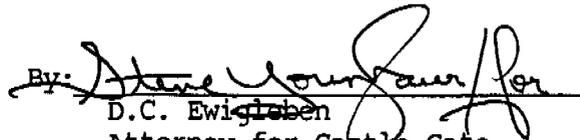
1. Petitioner owns and operates an underground coal mine known as the Castle Gate Mine in Carbon County, Utah.
2. The Castle Gate Mine is duly permitted and operates under the authority of the Utah Coal Mining and Reclamation Permanent Program.
3. On March 30, 1989, Division of Oil, Gas and Mining Reclamation

Hydrologist, Michael Deweese, conducted an inspection of the Castle Gate Mine and served NOV N89-31-1-2 alleging Petitioner violated UMC 817.46(c), UMC 817.46(h) and UMC 771.19.

4. On July 3, 1989, Division of Oil, Gas and Mining Reclamation Hydrologist, Michael Deweese, conducted an inspection of the Castle Gate Mine and subsequently served NOV N89-31-2-1 alleging Petitioner violated UMC 817.46(c) and UMC 771.19, and the field amendment unilaterally imposed by the Division.
5. The facts as alleged in NOV N89-31-1-2 (both counts) and N89-31-2-1 do not constitute violations.
6. Issuance of NOV N89-31-1-2 and N89-31-2-1 were arbitrary, capricious, and an abuse of discretion and otherwise not in accordance with the law.
7. The facts alleged in NOV N89-31-1-2 taken in the most favorable position for the Division would not result in any degradation of the environment. Temporary relief, if granted, would not adversely affect the public health or safety or cause significant imminent environmental harm to land, air or water resources.
8. Wherefore, Petitioner requests the following:
  1. That the Board grant temporary relief from the remedial action and abatement period of NOV N89-31-2-1 and the unilaterally imposed field amendment until the Board has opportunity to conduct a hearing and make a decision on the facts of violations on NOV N89-31-1-2 and N89-31-2-1.
  2. That the Board vacate NOV N89-31-1-2 and N89-31-2-1.

Respectfully submitted this 19 day of July, 1989.

CASTLE GATE COAL COMPANY

By:   
D.C. Ewigleben  
Attorney for Castle Gate  
Coal Company

Mailing Address and Telephone:

AMAX Coal Industries Inc.  
Capital Center  
251 North Illinois Street  
P.O. Box 967  
Indianapolis, Indiana 46206-0967  
(317) 266-1946

PROOF OF SERVICE

I, Donald C. Ewigleben, certify that I have this day served the foregoing Petition by mailing a copy thereof properly addressed, with postage prepaid to:

Barbara W. Roberts  
Physical Resources Division  
Assistant Attorney General  
236 State Capital  
Salt Lake City, Utah 84114

Lowell P. Braxton  
State of Utah  
Department of Natural Resources  
Division of Oil, Gas and Mining  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203

Dated this 19 day of July, 1989.

CASTLE GATE COAL COMPANY

By:   
Donald C. Ewigleben  
Attorney for Castle Gate  
Coal Company

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