

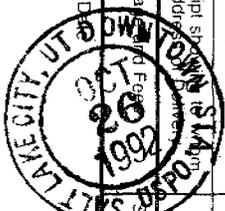
DOGMIJ INFORMAL ACT/007/004
P 074 975 135

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

PS Form 3800, June 1985

RICHARD H ALLISON JR P E PROJECT SUPERVISOR AMSTERDAM CO BELLE AYRE MINE 2273 BISHOP RD P O BOX 3005 P.O. State and ZIP Code GILLETTE WY 82717-3005		Postage	\$ 52
		Certified Fee	1.00
		Special Delivery Fee	
		Restricted Delivery Fee	
		Return Receipt showing to whom and Date Delivered	1.00
		Return Receipt showing Date, and Address of Delivery	
TOTAL Postage and Fees			\$ 52
Postmark or Date			



STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1988-217-132

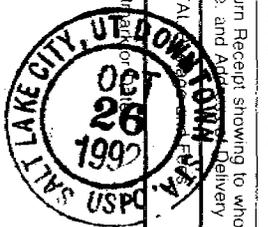
DOGMIJ INFORMAL ACT/007/004
P 074 975 135

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
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(See Reverse)

PS Form 3800, June 1985

\$ SEVEN R LAIRD ESQ MGR LEGAL & REGULATORY AFFAIRS AMSTERDAM CO BELLE AYRE MINE 2273 BISHOP RD P O BOX 3005 P.O. State and ZIP Code GILLETTE WY 82717-3005		Postage	\$ 52
		Certified Fee	1.00
		Special Delivery Fee	
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		Return Receipt showing to whom and Date Delivered	1.00
		Return Receipt showing Date, and Address of Delivery	
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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1988-217-132



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

*Informal Hearing
file*

Norman H. Bangertter
Governor
Dee C. Hansen
Executive Director
Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

December 2, 1992

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 713 917

Richard H. Allison, Jr. P.E.
Amax Coal Company, Belle Ayr Mine
2273 Bishop Road
P. O. Box 3005
Gillette, Wyoming 82717-3005


Dear Mr. Allison:

Re: Informal Hearing for State Violation N92-39-7-1, ACT/007/004, Castle Gate Mine, Amax Coal Company, Carbon County, Utah

In accordance with your request dated November 13, 1992, please be advised that the Informal Hearing on state violation N92-39-7-1, Castle Gate Mine, has been established for Friday, December 18, 1992, beginning at 9:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will held in the office of the Division of Oil, Gas, and Mining.

Best regards,



Dianne R. Nielson
Director

vb
cc: S. Laird, Amax Coal Co.
B. Freeman, OSM
J. Helfrich
DOGM Price Office
Public Notice Board



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

*Informal Hearing
 file*

Norman H. Bangert
 Governor
 Dee C. Hansen
 Executive Director
 Dianne R. Nielson, Ph.D.
 Division Director

355 West North Temple
 3 Triad Center, Suite 350
 Salt Lake City, Utah 84180-1203
 801-538-5340

August 24, 1992

CERTIFIED RETURN RECEIPT REQUESTED
 No. P 540 713 914

Richard H. Allison, Jr. P.E.
 Amax Coal Company, Belle Ayre Mine
 2273 Bishop Road
 P. O. Box 3005
 Gillette, Wyoming 82717-3005

Rich
 Dear Mr. Allison:

Re: Assessment Conference for State Violation N92-41-4-2, ACT/007/004,
 Castle Gate Mine, Amax Coal Company, Carbon County, Utah

In accordance with your request dated August 6, 1992, please be advised that the Assessment Conference on state violation N92-41-4-2, ACT/007/004, Castle Gate Mine, has been established for Friday, September 25, 1992, and will immediately follow the informal hearing beginning at 9:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will be held in the office of the Division of Oil, Gas and Mining.

Sincerely,

Ronald W. Daniels
 Ronald W. Daniels
 Assessment Conference Officer

vb

cc: S. Laird, Amax Coal Co.
 B. Freeman, OSM
 J. Helfrich
 DOGM Price Office
 Public Notice Board

AMAX COAL COMPANY

A Subsidiary of AMAX Coal Industries, Inc.

*1. Review for scheduling
Mine file*



WESTERN OPERATIONS

August 6, 1992

Ms. Dianne Nielson, Director
Division of Oil, Gas and Mining
Department of Natural Resources
355 West North Temple
3 Triad Center, Suite 3450
Salt Lake City, UT 84180-1203

RE: State Violation No's. N92-41-4-2/1 and /2, AMAX Coal Company,
Castle Gate Mine, ACT/007/004, Folder #5, Carbon County, Utah.

Dear Ms. Nielson:

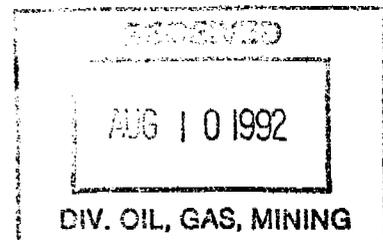
Pursuant to Utah Regulation R645-401-700, please be advised that AMAX Coal Company, Castle Gate Mine, is requesting an informal settlement conference to review the fact of violation and the proposed assessment as both relate to the above referenced State Violations.

Should you have any questions or comments about this request, please don't hesitate to contact me.

Sincerely,

Steven R. Laird
Manager, Legal and Regulatory Affairs

cc: Richard Allison
Steve Youngbauer





State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Informal Hearing
File

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

January 13, 1992

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 713 874

James W. Buck, Manager
Amax Coal Company
One Riverfront Place
20 North West 1st Street
Evansville, Indiana 47708-1258

Dear Mr. Buck:

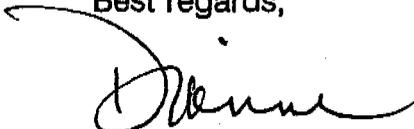
Re: Informal Hearing for State Violations, N91-38-3-1, C91-18-1-1, and C91-38-1-1, ACT/007/004, Amax Coal Company, Castle Gate Mine, Carbon County, Utah

In accordance with your requests dated December 16, 1991, please be advised that the Informal Hearing on state violations N91-38-3-1, C91-18-1-1, and C91-38-1-1, Castle Gate Mine, has been established for Friday, February 7, 1992, beginning at 9:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will held in the office of the Division of Oil, Gas and Mining.

Best regards,


Dianne R. Nielson
Director

vb
cc: B. Freeman, OSM
P. Winmill, Parsons Behle & Latimer
J. Helfrich
DOGM Price Office
Public Notice Board



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

*Informal Hearing
file*

Norman H. Bangertter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

355 West North Temple

3 Triad Center, Suite 350

Salt Lake City, Utah 84180-1203

801-538-5340

October 1, 1991

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 713 861

Ms. Patricia J. Winmill
Parsons Behle & Latimer
201 South Main Street, Suite 1800
P. O. Box 11898
Salt Lake City, Utah 84147-0898

Dear Ms. Winmill:

Re: Rescheduling of Informal Hearing on Fact of Violation for State Violations N91-18-1-1, and N91-28-2-1, Amax Coal Company, Castle Gate Mine, ACT/007/004, Carbon County, Utah

In accordance with your telephone request on September 26, 1991, to reschedule the Informal Hearing on the fact of violation for state violations N91-18-1-1, and N91-28-2-1, please be advised that the informal hearing has been rescheduled for Tuesday, October 22, 1991, beginning at 9:00 a.m. This informal hearing will be held in conjunction with the Assessment Conference.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will be held in the office of the Division of Oil, Gas and Mining.

Best regards,

Dianne R. Nielson
Director

vb

cc: B. Freeman, OSM
J. Helfrich
DOGM Price Office
Public Notice Board

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 N92-41-4-2,		AND ORDER
PART 1 OF 2, AMAX COAL COMPANY,	:	
CASTLE GATE MINE, CARBON COUNTY,		INFORMAL HEARING
UTAH, ACT/007/004	:	CAUSE NO. ACT/007/004

---ooOoo---

On September 25, 1992, the Division of Oil, Gas and Mining ("Division") held an informal hearing at the request of Amax Coal Company ("Amax") concerning the fact of violation for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding:	Dianne R. Nielson, Director Division of Oil, Gas and Mining
Petitioner: ("Amax")	Richard H. Allison, Jr., P.E. Project Supervisor Amax Coal Company Steven R. Laird, Esq. Manager, Legal and Regulatory Affairs Amax Coal Company
Division:	Lowell Braxton Associate Director for Mining Paul B. Baker Reclamation Specialist Issuing Inspector
Board:	Joe Helfrich Assessment Officer Penalty Assessment Ronald W. Daniels Assessment Conference Officer Penalty Assessment

The Findings, Conclusions, and Order in this matter are based on information provided in connection with this informal hearing, and 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 N92-41-4-2, Parts 1 of 2 and 2 of 2, was held immediately following this informal hearing regarding fact of violation. Requirement to pay the assessed penalty is stayed pending the decision in the informal review of fact of violation.
3. NOV N92-41-4-2 was issued on June 8, 1992, by Paul Baker, based on an inspection of the Castle Gate Mine on June 2, 1992.
4. NOV N92-41-4-2 includes two parts. Only Part 1 of 2 is being appealed with respect to the fact of violation during this informal hearing.
5. N92-41-4-2, Part 1 of 2, was written for failure to follow the approved plan for pest (weed) control, and failure of the establish plant species to meet the requirements of Utah noxious weed laws, as provided in Utah Admin. R. 645-301-341.240, 301-351, and 301-353.200.
6. Required remedial action included development of a plan to control the noxious weed, dyer's woad, consultation with the Division if chemical treatment was proposed, and implementation of the plan in Hardscrabble Canyon.

7. Amax Mine Plan states in chapter 9, page 51, states:

No pest or disease is anticipated. However, a plan to control disease or pests will be developed with the Division should a problem arise.

8. Dyer's woad was first noted during a courtesy inspection of the Hardscrabble Canyon area of the mine, when company officials and Division staff were present on March 12, 1992.

9. In a letter dated March 13, 1992, the Division referenced the requirements of Amax's plan for the Castle Gate Mine regarding noxious weed control and suggested that Amax follow its mine plan by developing a plan for control of the dyer's woad.

10. During the partial inspection conducted by Paul Baker on May 8, 1992, and in the written inspection report, dated May 15, 1992, and mailed to Richard Allison, the infestation of dyer's woad was again discussed, and the importance of developing a plan and conducting control work before mature seeds formed was again emphasized.

11. The Division did not receive a plan from Amax for control of dyer's woad in response to either its March 13, 1992, letter, or its May 15, 1992, inspection report.

12. During the informal conference, Amax's representative indicated that it thought a more detailed plan was needed, and it was preparing that plan. Representatives indicated that it was not until the NOV was issued that they realized that implementation of a simple control plan was all that was needed. That plan was developed and implemented within the required

abatement time, on June 11, 1992.

CONCLUSIONS OF LAW

1. Amax's Mine Plan and Utah Admin. R. 645-301-341.240, 301-351, and 301-353.200 require development of a plan for control when a noxious weed is identified on the mine site.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N92-41-4-2, Part 1 of 2 is upheld.
2. The finalized assessment, resulting from the Assessment Conference of September 25, 1992, is due and payable to the Division 30 days from the date of this Order.
3. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and/or finalized assessment 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 26th day of October, 1992.



Dianne R. Nielson, 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 in Cause No. ACT/007/004 to be mailed by certified mail, postage prepaid, on the 26th day of October, 1992, to the following:

Richard H. Allison, Jr., P.E.
Project Supervisor
Amax Coal Company, Belle Ayre Mine
2273 Bishop Road
P.O. Box 3005
Gillette, Wyoming 82717-3005

Steven R. Laird, Esq.
Manager, Legal & Regulatory Affairs
Amax Coal Company, Belle Ayre Mine
2273 Bishop Road
P.O. Box 3005
Gillette, Wyoming 82717-3005



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

---oo0oo---

IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACE OF VIOLATION	:	AND ORDER
#N91-28-2-1, AMAX COAL COMPANY	:	
CASTLE GATE MINE, ACT/007/004,	:	INFORMAL HEARING
CARBON COUNTY, UTAH	:	CAUSE NO. ACT/007/004

---oo0oo---

On October 22, 1991, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation for the above-referenced Notice of Violation ("NOV"). The following individuals attended the hearing:

Presiding: Dianne R. Nielson, Director
Division of Oil, Gas and Mining

Petitioner: Patricia J. Winmill, Esq.
("Amax") Parsons, Behle and Latimer
Counsel for Amax Coal Company

David Hamm
Amax Coal Company

Darlene Murphy
Amax Coal Company

Division: Sharon Falvey
Reclamation Specialist

Daron Haddock
Permit Supervisor
Issuing Inspector

Lowell Braxton
Associate Director, Mining

William Richards, Esq.
Assistant Attorney General

Board: Ron Daniels
Assessment Conference Officer
Penalty Assessment

Joe Helfrich
Assessment Officer
Penalty Assessment

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

FINDINGS OF FACT

1. Notice of this informal hearing was properly given.

2. The Assessment Conference to review the proposed penalty for NOV #N91-28-2-1, was held immediately following this informal hearing regarding fact of violation. Requirement to pay the assessed penalty is stayed pending the decision in the informal review of fact of violation.

3. On January 30, 1991, Amax Coal Company submitted an application for permit transfer from Castle Gate Coal Company for the Castle Gate Mine. On July 2, 1991, the Division issued the permit transfer.

4. On December 18, 1990, the Division issued a Division Order requiring the operator to correct numerous permit defects by submitting complete permit changes by specific dates.

5. NOV #N91-28-2-1 was issued July 5, 1991, for failure to comply with the terms of the Division Order and the

requirements of the state program, in accordance with Utah Admin. R. 614-300-143. The violation specifically references compliance with regulations and requirements listed in parts 2, 3, 4, 5, 6, 13, 14, 16, 17, 18, 19, 21, 23 and 25 of the Division Order.

6. On September 19, 1991, the Board, in response to a petition from Amax Coal Company, issued an Order For Temporary Relief from the abatements required under items 2, 3, 4, 13, 17, 18, 19, 21 and 25 of the Division Order as referenced in the NOV. Temporary relief has been granted during informal and formal appeals of the subject NOV and Division Order before the Division and Board of Oil, Gas and Mining.

7. With respect to the information required under Utah Admin. R. 614-301-122, in part 2 of the Division Order, Petitioner agreed that there were problems but considered them to be "just details". Complete permit changes were not provided on or before June 1, 1991.

8. Maps and plans required under Utah Admin. R. 614-301-140 in part 3 of the Division Order were not provided by the Operator. The missing map information included information for rip rap and reseeding.

9. With respect to pre-law and post-law information required in maps and plans under R. 614-301-142, part 4 of the Division Order, Petitioner acknowledged that the information was in the text but not on accompanying permit maps, as required.

10. Petitioner acknowledged that citations in the permit text must reference Utah Admin. R. 614- sequence rules

rather than UMC/SMC sequence rules, as required in part 5 of the Division Order. Those references were not corrected prior to issuance of the NOV.

11. Amax has now provided the Division with a map including the information required in Utah Admin. R. 614-301-222, part 6 of the Division Order. A legible map was not provided on or before March 1, 1991.

12. Failure to provide information including seed mixes required by part 13 of the Division Order under Utah Admin. R. 614-301-340 was acknowledged by Petitioner. The deficiencies were considered by Petitioner to be minor.

13. Information required under Utah Admin. R. 614-301-411, part 14 of the Division Order, was provided in text, but the Petitioner did not understand that the information needed to be provided on a map, and it was not provided on or before March 1, 1991.

14. Part 16 of the Division Order, compliance with Utah Admin. R. 614-301-525.100, was not attained on or before June 1, 1991. Operator indicated that it has put the additional, required information in the annual subsidence report and committed to put the information in the Mining and Reclamation Plan.

15. Amax considers the issues in part 17 of the Division Order regarding Utah Admin. R. 614-301-550 to be tied to the request for temporary relief. The necessary information was not provided prior to the Requested Order for Temporary Relief

and has not been provided.

16. Issues regarding Utah Admin. R. 614-301-553, in part 18 of the Division Order are considered part of the request for temporary relief. Information was not provided prior to the Request and Order for Temporary Relief and has not been provided. Petitioner contends in part that because highwalls were originally outside the disturbed area boundary, they cannot be subject to inclusion and reclamation during a later review.

17. Issues regarding Utah Admin. R. 614-301-553, in part 19 of the Division Order are considered part of the request for temporary relief. Information was not provided prior to the Request and Order for Temporary Relief and has not been provided. Petitioner contends in part that because highwalls were originally outside the disturbed area boundary, they need not be subject to determinations of pre-law status for purposes of a reclamation variance regarding insufficient spoils.

18. Information required in part 21 of the Division Order under Utah Admin. R. 614-301-731 was not provided prior to issuance of the NOV.

19. Deficiencies noted in part 23 of the Division Order are subject to NOV #N90-19-2-1 and should not be considered as part of this review.

20. Issues regarding Utah Admin. R. 614-301-800, in part 25 of the Division Order are considered part of the request for temporary relief. Information was not provided prior to the Request and Order for Temporary Relief and has not been provided.

Petitioner contends in part that because highwalls were originally outside the disturbed area boundary, they are not subject to bonding and reclamation.

21. The Division informed the operator of technical deficiencies, including those defined in the Division Order, on numerous occasions including November 16, 1989; June 21, 1990; and December 18, 1990. When NOV #91-28-2-1 was issued on July 5, 1991, the operator had not provided the necessary information and permit changes.

CONCLUSIONS OF LAW

1. Amax Coal Company is the successor in interest and bears the responsibilities delineated in Utah Admin. R. 614-303-360.

2. The Division is justified in requiring the operator to make permit changes as delineated in the Division Order dated December 18, 1990. Utah Admin. R. 614-303-212.

3. The portions of the permit which were delineated in the Division Order, parts 2, 3, 4, 5, 6, 13, 14, 16, 17, 18, 19, 21, 23, and 25, were not in compliance with referenced portions of the rules when the Division Order was issued; neither were these portions of the permit in compliance when NOV #N91-28-2-1 was issued.

4. Amax failed to provide complete permit changes as required in the Division Order, parts 2, 3, 4, 5, 6, 13, 14, 16, 17, 18, 19, 21, 23 and 25 and NOV #N91-28-2-1.

5. The failure of Amax to timely submit complete permit changes prohibited timely construction and operation, where needed, to attain compliance with the Utah Coal Regulatory Program rules and statute.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV #N91-28-2-1 is upheld.
2. The finalized assessment, resulting from the Assessment Conference of October 22, 1991, is due and payable to the Division 30 days from the date of this Order.
3. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and/or finalized assessments by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed penalty in escrow.

SO DETERMINED AND ORDERED this 21st day of November, 1991.



Dianne R. Nielson, Director
Division of Oil, Gas and Mining
State of Utah

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

---oo0oo---

IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION	:	AND ORDER
#N91-18-1-1, AMAX COAL	:	
COMPANY, CASTLE GATE	:	INFORMAL HEARING
MINE, ACT/007/004, CARBON	:	CAUSE NO. ACT/007/004
COUNTY, UTAH	:	
	:	

---oo0oo---

On October 22, 1991, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation for the above-referenced Notice of Violation ("NOV"). The following individuals attended the hearing:

Presiding: Dianne R. Nielson, Director
Division of Oil, Gas and Mining

Petitioner: Patricia J. Winmill, Esq.
("Amax") Parsons, Behle and Latimer
Counsel for Amax Coal Company

David Hamm
Amax Coal Company

Darlene Murphy
Amax Coal Company

Division: Sharon Falvey
Reclamation Specialist
Issuing Inspector

Daron Haddock
Permit Supervisor

Lowell Braxton
Associate Director, Mining

William Richards, Esq.
Assistant Attorney General

Board: Ron Daniels
Assessment Conference Officer
Penalty Assessment

Joe Helfrich
Assessment Officer
Penalty Assessment

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

FINDINGS OF FACT

1. Notice of this informal hearing was properly given.

2. The Assessment Conference to review the proposed penalty for NOV #N91-18-1-1, was held immediately following this informal hearing regarding fact of violation. Requirement to pay the assessed penalty is stayed pending the decision in the informal review of fact of violation.

3. On January 30, 1991, Amax Coal Company submitted an application for permit transfer from Castle Gate Coal Company for the Castle Gate Mine. On July 2, 1991, the Division issued the permit transfer.

4. A Division Order dated December 18, 1990, in part 24, required that the subject School House Refuse Pile meet the requirements of Utah Admin. R. 614-301-746 and R. 614-301-742.300, including drainage diversion, and safely pass runoff from a 100-year 6-hour event (R. 614-301-745.222). The operator

was ordered to submit the complete permit changes as required on or before June 1, 1991.

5. The requirement for submission of complete permit changes regarding part 24 of the Division Order was not met on or before June 1, 1991.

6. On June 28, 1991, NOV #N91-18-1-1 was issued for failure to pass drainage from the crest and face of the School House Canyon Refuse Pile refuse and fill in accordance with Utah Admin. R. 614-301-742.30, R. 614-301-745.222 and R. 614-301-746.212. The NOV required abatement consisting of 1) securing approval for diversion designs within 30 days and 2) completion of construction within 60 days of NOV issuance.

7. On August 14, 1991, a failure to abate cessation order (FTACO #91-18-1-1) was issued for failure to abate NOV #N91-18-1-1. On October 16, 1991, a complete permit change, as required in part 24 of the Division Order, NOV #91-18-1-1, and FTACO #91-18-1-1 was submitted. This FTACO has not been appealed as part of this matter.

8. Petitioner contends that this was not a "knowing" violation; there were problems with communication; and the Division failed to provide sufficient direction under the NOV.

9. Utah Admin. R. 614-301-742.300 provides direction on construction and operation requirements for diversion ditches.

10. Utah Admin. R. 614-301-745.222 provides direction on runoff and diversion requirements regarding drainage control.

11. Utah Admin. R. 614-301-746.212 provides

requirements for diversion of drainage associated with coal mine waste.

12. Division has documented receipt of incomplete and inconsistent information in submittals from the operator in response to the above-referenced deadlines prior to October 16, 1991.

13. No information was presented by the Petitioner to substantiate contentions in part 7 above, or document the completeness of permit change submittals.

CONCLUSIONS OF LAW

1. Amax Coal Company is the successor in interest to the Castle Gate Coal Mine and bears the responsibilities delineated in Utah Admin. R. 614-303-360.

2. The Division was justified in requiring the operator to make a permit change, as delineated in part 24 of the Division Order. Utah Admin. R. 614-303-212.

3. The School House Refuse Pile was not in compliance with Utah Admin. R. 614-301-742-300, R. 614-301-745.222, and R. 614-301-746.212 when the Division Order, including part 24, was issued; neither was the refuse pile in compliance with the referenced rules when NOV #N91-18-1-1 was issued.

4. Amax failed to provide complete permit changes as required in part 24 of the Division Order and NOV #N91-18-1-1 and in compliance with Utah Admin. R. 614-301-742.300, R. 614-301-745.222, and R. 614-301-746.212.

5. The failure of Amax to timely submit complete permit changes prohibited timely construction to bring the School House Refuse Pile into compliance with Utah Admin. R. 614-301-742.300, R. 614-301-745.222, and R. 614-301-746.212.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV #N91-18-1-1 is upheld.
2. The finalized assessment, resulting from the Assessment Conference of October 22, 1991, is due and payable to the Division 30 days from the date of this Order.
3. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and/or finalized assessment by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed penalty in escrow.

SO DETERMINED AND ORDERED this 21st day of November, 1991.


Dianne R. Nielson, Director
Division of Oil, Gas and Mining
State of Utah