

file

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	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION FOR NOV	:	AND ORDER
N92-39-7-1, AMAX COAL COMPANY,	:	
CASTLE GATE MINE, ACT/007/004,	:	CAUSE NO. ACT/007/004
CARBON COUNTY, UTAH	:	

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On December 18, 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
Division:	Lowell Braxton Associate Director for Mining  Steve Demczak Reclamation Specialist Issuing Inspector  Sharon Falvey Reclamation Specialist  Rick Summers Reclamation Specialist
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 N92-39-7-1, 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. NOV N92-39-7-1 was written after an inspection by Steve Demczak on September 15 and 16, 1992, for failure to maintain diversion to performance standards, in accordance with Utah Admin. R. 645-742.332. The diversion (713) is located at the inlet to sediment pond (013).
4. Amax submitted a permit revision on July 13, 1992, which incorrectly designed the subject diversion for a 10 year/6-hour storm event instead of a 100 year/6-hour storm event.
5. Erosion of the diversion was noted during an inspection by Steve Demczak on July 27 and 28, 1992. The need to maintain the ditch was discussed by Steve Demczak and Richard Allison.
6. On September 8, 1992, Amax submitted a permit revision for design and maintenance of the subject ditch. The revision was denied by letter dated September 25, 1992.

7. On November 20, 1992, NOV N92-39-7-1 abatement time was extended to January 15, 1993, to allow time for review and implementation of plans.

CONCLUSIONS OF LAW

1. Amax has the responsibility to take action to maintain the permit area in compliance with performance standards of Utah Admin. R. 645 et seq.

2. Amax failed to timely provide a permit revision including appropriate storm event and design calculations, to redesign and maintain the subject diversion after the need for maintenance was identified in the July 27 and 28, 1992 inspection.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N92-39-7-1 is upheld.
2. The finalized assessment, resulting from the Assessment Conference of NOV N92-39-7-1, is due and payable to the Division 30 days from the date of mailing 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 31st day of December,  
1992.

STATE OF UTAH  
DIVISION OF OIL, GAS AND MINING

  
Dianne R. Nielson, Director

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/007/004 to be mailed by certified mail, postage prepaid, the 20th day of January 1993, to the following:

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

Kim Kubota

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\*                   \*\* TRANSMIT CONFIRMATION REPORT \*\*  
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State of Utah  
 DEPARTMENT OF NATURAL RESOURCES  
 DIVISION OF OIL, GAS AND MINING

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 Executive Director  
 Dianne R. Nielson, Ph.D.  
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UTAH DIVISION OF OIL, GAS AND MINING  
 FACSIMILE TRANSMISSION COVER SHEET

DATE: 1/20/93  
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 COMPANY AMAX COAL CO.  
 FROM: Dianne Nielson  
 DEPARTMENT: DOEM  
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