

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 N93-41-2-1	:	AND ORDER
AMAX COAL COMPANY, CASTLE	:	
GATE MINE, ACT/007/004,	:	INFORMAL HEARING
FOLDER #5, CARBON COUNTY, UTAH	:	CAUSE NO. ACT/007/004

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On December 3, 1993, 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:

Presiding:	James W. Carter, Director Division of Oil, Gas and Mining
Petitioner:	Richard Allison, Jr. Amax Coal West, Inc. Steven Laird, Esq. Attorney for Amax Coal West, Inc.
Division:	Ronald W. Daniels Assessment Conference Officer Paul Baker Reclamation Specialist
Board:	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 hearing was properly given.
2. The Assessment Conference, to review the proposed penalties for NOV 93-41-2-1, was held immediately following the informal fact of violation hearing. Requirement to pay the assessed penalty is stayed pending the decision in the informal fact of violation matter.
3. The Utah Bureau of Water Pollution Control issued Amax UPDES Permit NO. UTG040000 effective July 1, 1991 ("UPDES Permit"). The UPDES Permit requires Amax to monitor discharges for various elements including total iron and requires the results to be summarized for each calendar month and submitted by the 28th of the month following the end of the quarter.
4. In April 1993, Amax discharged water from pond 14 in Crandall Canyon.
5. Amax sampled the discharge and timely submitted the results to the Division of Oil, Gas & Mining (the "Division"). The UPDES report, however, did not provide information relating to the total iron content of the discharge.
6. The Division issued NOV 93-41-2-1 (the "NOV") for failure to monitor the discharge for total iron in accordance with Amax's UPDES permit, 40 CFR Part 434, and Utah Admin. R. 645-301-731.222.1.
7. The NOV was issued on August 10, 1993, but not sent to the operator until August 25, 1993.

8. Division inspector, Paul Baker, characterized the violation as a hinderance violation because Amax's failure to provide information on total iron prevented the Division from determining whether the discharge from pond 14 exceeded allowable levels for total iron.

9. After it received the NOV, Amax discovered that it had retained a portion of the original water sample and had tested it for total iron.

10. On August 27, 1993, Amax submitted the results to the Division.

12. Although Amax did not timely submit the results of its sample as it related to total iron, it was able to test the original water sample for total iron and submit those results to the Division. Accordingly, the Division was not prevented from determining whether elevated iron levels were present in the discharge from pond 14 in Crandall Canyon.

CONCLUSIONS OF LAW

1. Although Amax's submission of information on total iron was not timely filed with the Division, Amax did not fail to monitor its discharge from pond 14 in Crandall Canyon for total iron in accordance with its UPDES permit and 40 CFR Part 434, and Utah Admin. R. 645-301-731.222.1.

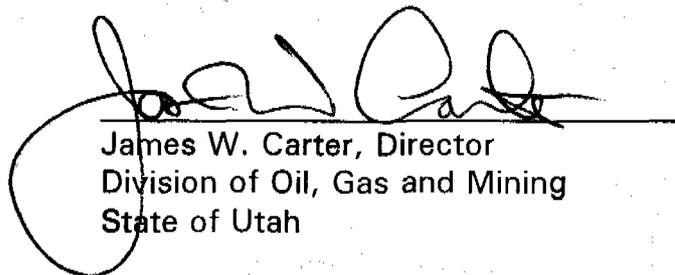
2. Accordingly, the Division was not prevented from determining whether the discharge exceeded the acceptable levels for total iron.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV 93-41-2-1 is vacated.

SO DETERMINED AND ORDERED this 4th day of January, 1994.



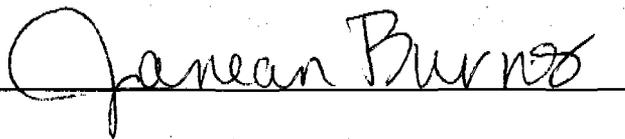
James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

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/007/004 to be mailed by certified mail, postage prepaid, on the 6 day of January 1994, to the following:

Richard Allison, Jr.
Amax Coal West, Inc.
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Steven Laird, Esq.
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A handwritten signature in cursive script that reads "Janean Burns". The signature is written in black ink and is positioned above a solid horizontal line.