

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 OF FACT OF VIOLATION N95-41-1-1, AMAX COAL COMPANY, CASTLE GATE MINE	: :	FINDINGS, CONCLUSIONS AND ORDER CAUSE NO. ACT/007/004
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On August 28, 1995, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Amax Coal Company for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding: James W. Carter
Director

Petitioner: Johnny Pappas

Division: Paul Baker

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 N95-41-1-1, was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

3. Violation N95-41-1-1 was written for "Failure to submit an anticipated blast design for blasting operations conducted within 500 feet of an underground mine." The blast in question was less than five pounds of explosive, and was detonated in the portal of the Castle Gate Mine to collapse the portal supports as part of reclamation of the mine.

4. The Mining and Reclamation Plan for the Castle Gate Mine provides:

"Blast Design: No blasting design is required for blasts less than five pounds. Castle Gate Coal does not anticipate any blasts five pounds or greater. If future construction necessitates blasts greater than five pounds, then a blast design will be submitted to the Division thirty days prior to the proposed blast."

5. R645-301-524.210 provides:

"An anticipated blast design will be submitted for all blasts if blasting operations will be conducted within:" 524.212. "500 feet of an active or abandoned underground mine."

6. 30 CFR Section 816.61 (d) Blast Design provides:

"An anticipated blast design shall be submitted if blasting operations will be conducted within . . . (ii) 500 feet of an active or abandoned underground mine."

CONCLUSIONS OF LAW

1. The blast in question was conducted in violation of the requirements of the state regulatory program.

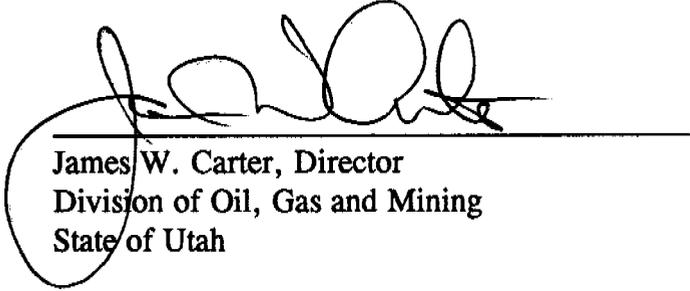
2. The language of the Mining and Reclamation Plan ("MRP") is not inconsistent with the requirements of the program regarding blasting but, read alone, a permittee could conclude from the MRP that no prior approval of the blasting plan was required for the blast in question.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N95-41-1-1 is upheld.
2. The Hindrance points assessed are reduced from 25 to 15 and the negligence points from 10 to 5, resulting in a finalized assessment of 23 points and an assessed fine of \$260 which 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 25th day of September, 1995.



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 first-class, postage prepaid, on the 28 day of September, 1995, to the following:

Johnny Pappas, Environmental Engineer
AMAX Coal Company
P.O. Drawer PMC
Price, Utah 84501