

file

0012

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 N92-37-1-1,		AND ORDER
UTAH FUEL COMPANY, SKYLINE	:	
MINE, CARBON COUNTY, UTAH,		INFORMAL HEARING
ACT/007/005	:	CAUSE NO. ACT/007/005

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On March 20, 1992, the Division of Oil, Gas and Mining ("Division") held an informal hearing at the request of Utah Fuel Company ("Utah Fuel") 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: Ken May
("Utah Fuel") Utah Fuel Company
- Keith Zobell
Utah Fuel Company
- Division: Lowell Braxton
Associate Director for Mining
- Priscilla Burton
Reclamation Specialist
Issuing Inspector
- Daron Haddock
Permit Supervisor
- Paul Baker
Reclamation Specialist

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. NOV N92-37-1-1 was issued on March 4, 1992, based on an inspection conducted by Priscilla Burton on February 26, 1992. The NOV was written for failure to provide monitoring results of revegetation practices, treatments, and trial as described in pages 4-35 and 4-36, Volume A-2 of the Mining and Reclamation Plan, in accordance with Utah Code Ann. § 40-10-19(1), Utah Admin. R645-301-351, R645-301-330, R645-301-331, and R645-300-143. This information is also requested annually by the Division in the Annual Report.

3. Information in Section 4.7.3 of Appendix Volume A-2 of the Mining and Reclamation Plan, on pages 4-35 (dated 7/17/89) and 4-36 (dated 10/15/88), discusses revegetation, stabilization and reclamation of the conveyor bench and slopes. In that section, it states that:

Revegetation analyses have been conducted annually and reported to the regulatory authority. (emphasis added)

There is no statement that analyses, evaluation or monitoring would continue to be reported annually to the regulatory authority.

4. The Skyline Mine, Utah Fuel Company, Revegetation Plan and Recommendations, dated 8/19/88, includes descriptions of revegetation trials and practices, including requirements to evaluate revegetation at specific times and revise revegetation plans based on the evaluations. However, there are no requirements to report the results to the Division.

5. Correspondence from the U.S. Soil Conservation

Service (SCS), dated March 18, 1992 and March 24, 1992, verify that Utah Fuel Company and the SCS conducted site visits to evaluate the revegetation of the conveyor belt and slopes during 1989, 1990, and 1991. The correspondence and summation include descriptions of success of certain species and limited growth of others, but defer the site evaluation to the summer of 1992.

CONCLUSIONS OF LAW

1. It is reasonable and within the requirements of the rules for the Division to require Utah Fuel to identify measures to be used to determine the success of revegetation, to conduct tests and studies to demonstrate revegetation feasibility, and to report the results to the Division, as provided in Utah Admin. R645-301-341.100, R645-301-431.250, R645-301-341.300, and R645-301-356.

2. Correspondence, including notes and summation, indicates that Utah Fuel examined the revegetation on the conveyor belt and slopes with SCS, as required in the Mining and Reclamation Plan and the rules. The correspondence suggests that revegetation success was not sufficient to initiate an evaluation until the summer of 1992. Whether these site visits and field notes constitute evaluations or monitoring which the Division expected to be included in the Annual Report is not clear.

3. The Mining and Reclamation Plan, on pages 4-35 and 4-36 of Volume A-2, did not require reporting of revegetation evaluations or monitoring in the Annual Report.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N92-37-1-1 is vacated.
2. Utah Fuel complete the following actions:
 - 2.1. Provide in the 1991 Annual Report a written summary of the experimental practices and trials which have been conducted on the conveyor bench and associated slopes during 1988, 1989, 1990, and 1991, including a discussion of methodologies, successes, failures and conclusions;
 - 2.2. Attach the information referenced in Part 2.1 above to the Skyline Mine, Utah Fuel Company, Revegetation Plan and Recommendations, Appendix Volume A-2; and
 - 2.3. Place a commitment in the Mining and Reclamation Plan to provide annual written evaluations of contemporaneous revegetation and reclamation on the conveyor bench and slopes.
3. The actions required in Part 2 of this Order will be completed within 30 days of the date of issuance of this Order.
4. The Petitioner may appeal to the Board of Oil, Gas and Mining this informal determination of fact of violation 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 20th day of April, 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 for Cause No. ACT/007/005 to be mailed by certified mail, postage prepaid, the 20th day of April, 1992 to:

Ken May
Utah Fuel Company
P.O. Box 719
Helper, Utah 84526

Kim A. Kubota

P 074 979 657

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Return to Utah Fiel Co Street and PO Box 719	
P.O. State and ZIP Code Helper UT 84526	
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 to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 2 52
Postmark or Date	

PS Form 3800, June 1985

Fold at line over top of envelope to the right
of the return address.



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