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Governor
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Executive Director
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Director

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

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Executive Secretary

December 1, 1998

Mr. Dan Meadors, Mine Manager
Canyon Fuel Company, LLC
Skyline Mines
P.O. Box 719
Helper, Utah 84526

Dear Mr. Meadors:

Subject: Placement of Drilling Fluids, Notice of Violation & Order, Docket No. 198-07

The enclosed Notice of Violation and Order, Docket No. 198-07, describes a violation of the Utah Water Quality Act. Even though Canyon Fuel Company, LLC, Skyline Mine has taken positive and significant steps to address the unexpected discharge of October 24, 1998, we cannot overlook the fact that the drilling fluids should have never been placed in pond 002 with consequent discharge to Mud Creek. Due to this violation, we find it necessary to proceed with a formal enforcement action in order to pursue a satisfactory resolution of the violation.

We urge you to direct your immediate attention to this matter. Please feel free to contact Mike Herkimer or myself at (801) 538-6146, if you have any questions or comments.

Sincerely,

Utah Water Quality Board

Don A. Ostler, P.E.
Executive Secretary

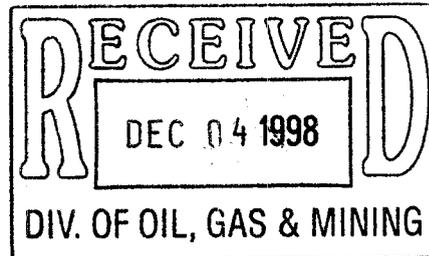
DAO:MDH:st

Enclosure

- cc: Fred Nelson, Assistant Attorney General (w/encl)
- Donna Inman, EPA Region VIII (w/encl)
- Claron Bjork, Southeastern Utah Health Dept. (w/encl)
- Dave Ariotti, DEQ District Engineer (w/encl)
- Dianne Neilsen, Director, DEQ (w/encl)

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FILE:



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ACT/007/005 #2
Copy: Joe: Daloni
PAM*

UTAH WATER QUALITY BOARD

IN THE MATTER OF	:	DOCKET NUMBER I98-07
CANYON FUEL COMPANY, LLC	:	NOTICE OF VIOLATION
SKYLINE MINES	:	AND ORDER
UPDES PERMIT NO. UT0023540	:	

STATUTORY AUTHORITY

The UTAH WATER QUALITY BOARD (hereinafter "the BOARD") issues this Notice of Violation and Order under the *Utah water Quality Act (the Act)* including Sections 19-5-104, 19-5-106, 19-5-107, 19-5-115, *Utah Code Annotated (UCA)*, and in accordance with the *Utah Administrative Procedures Act, UCA 63-46b-1, et seq.*

FACTS

1. CANYON FUEL COMPANY, LLC, SKYLINE MINES (hereinafter "SKYLINE") owns and operates an underground coal mining operation located near Scofield Reservoir on Eccles Creek.
2. *The Act, Section 19-5-107(1) (a) and (b) states, "(1) (a) Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution. (b) Any violation of this subsection is a public nuisance."* Also *Utah Administrative Code (UAC) R317-2-7.2 states, "It shall be unlawful, and a violation of these regulations, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum, or other nuisances such as color, odor, or taste; ..."*
3. Utah Pollutant Discharge Elimination Systems (UPDES) permit number UT0023540, Part I. B. describes three discharge points and that outfall 002 and 003 are to receive surface runoff only.

FINDINGS

1. **SKYLINE** allowed drilling fluids containing a foaming agent to be discharged to the sedimentation pond at the train loadout (associated with the 002 discharge point).
2. On Saturday October 24, 1998 foam was being blown down Pleasant Valley and a hole in the dike developed in the sediment pond at the train loadout resulting in the discharge of drilling fluids to Mud Creek.

VIOLATIONS

Based on the foregoing **FACTS** and **FINDINGS**, **SKYLINE** is in violation of:

1. *The Act, 19-5-107 (1)(a)*, also *UAC R317-2-7.2* for discharging pollutants to waters of the State that caused unnatural deposits on the ground and in the water causing a nuisance.
2. Part I.B of UPDES Permit No. UT0023540 for discharging wastes not authorized by the permit.

ORDER

The **BOARD** hereby **ORDERS SKYLINE** to:

- A. Submit within 30 days of receipt of this **ORDER** a detailed report providing the following:
 1. The chronology (dates) of discharge of drilling fluids to the pond, quantities, chemical characteristics, and any other information that would characterize this event.
 2. Dates, flow rate and quantity of discharge from 002, including all sampling data collected from the effluent and receiving water.
- B. Submit within 30 days a detailed plan of how the drilling fluids in the pond associated with outfall 002 has been or will be disposed of and a schedule for completing such action. Also indicate how the pond will be cleaned and a schedule for doing so.

NOTICE

Any appeal of the Notice of Violation and Order will be pursuant to *UAC R317-1-8* and *UCA 63-46b-6 through 63-46b-15*. If **SKYLINE** contests any portion of the Notice of Violation and Order, it must do so in writing and request a hearing before the **BOARD** within thirty (30) days of receipt of this notice. If no response and request for hearing is received, the Notice of Violation and Order shall be considered final.

UCA 19-5-115 provides that violators of the Act or a related permit, rule, or order may be subject to a civil penalty of up to \$10,000 per day of violation. Under certain circumstances of wilfulness or gross negligence, violators may be fined up to \$25,000 per day.

Signed this 2nd day of Dec., 1998.

Utah Water Quality Board



Don A. Ostler, P.E.
Executive Secretary