

0066



Dianne R. Nielson, Ph.D.
Executive Director

Don A. Ostler, P.E.
Director

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

288 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
(801) 538-6146
(801) 538-6016 Fax
(801) 536-4414 T.D.D.
www.deq.state.ut.us Web

OUR COPY

Water Quality Board

K.C. Shaw, P.E.
Chairman

William R. Williams
Vice Chairman

Robert G. Adams
Nan Bunker

Ray M. Child, C.P.A.

John R. Cushing, Mayor

Neil K. Kocheour, M.D.

Dianne R. Nielson, Ph.D.

Ronald C. Sims, Ph.D.

Douglas E. Thompson, Mayor

J. Ann Wechsler

Don A. Ostler, P.E.

Executive Secretary

November 1, 2001

CERTIFIED MAIL
(Return Receipt Requested)

Mr Dan Meadors, General Manager
Canyon Fuel Company, LLC, Skyline Mine
HC35 Box 380
Helper, Utah 84526

Dear Mr Meadors:

Subject: Canyon Fuel Company, LLC, Skyline Mine, UT0023540, Notice of Violation and Order,
Docket No. I01-05

As you are no doubt aware, on August 28th Skyline Mine released a large amount of coal fines to Eccles Creek. As a result of this discharge to waters of the State, a Notice of Violation and Order is being issued. Transmitted herewith is a Notice of Violation (NOV) and Order from the Utah Water Quality Board requiring your immediate attention. We have worked closely with your Company in the past and look forward to continuing this relationship into the future.

If you have any questions please contact Mike Herkimer of my staff at (801) 538-6058.

Sincerely,

Utah Water Quality Board

Don A. Ostler, P.E.
Executive Secretary

DAO:MDH:mcc

cc: Fred Nelson, Assistant Attorney General (w/encl)
Dianne Nielson, Executive Director, DEQ (w/encl)
Donna K, Inman (8ENF-T) USEPA, Region VIII (w/encl)
Claron Bjork, Southeastern Utah District Health Department (w/encl)
David Ariotti, Regional Engineer (w/encl)

SKYLINE.ENF.LTR

*Income
4/00/005
Copy Baron, May Ann,
Mike, Ann
(2-sided)*

UTAH WATER QUALITY BOARD

IN THE MATTER OF	§	DOCKET NUMBER I01-05
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, 19-5-111 and 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. *Utah Code Annotated (UCA) 19-5-107(1)(2) states, "...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."*
3. *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; ..."*
4. **SKYLINE** has been issued a Utah Pollutant Discharge Elimination System (UPDES) permit, No. UT0023540.
5. Part I.D. of **SKYLINE**'s UPDES permit UT0023540 has a limit for total suspended solids (TSS) of 25 mg/L as a 30-day average, 35 mg/L as a 7-day average and 70 mg/L as a daily maximum concentration.
6. Part I.D of **SKYLINE**'s UPDES permit NO. UT0023540 has a limit of 1.0 for total iron.

CONFIDENTIAL

FINDINGS

1. On August 28th **SKYLINE** contacted the Division of Water Quality and indicated that they had discharged a large amount of coal fines to Eccles Creek. On August 29th representatives of the Division of Water Quality visited the Eccles Creek area and took pictures and samples of Mud Creek and Eccles Creek (Eccles Creek is a tributary of Mud Creek). Along Eccles and Mud Creeks' bottom, sides and surrounding vegetation were coated with coal dust (see pictures of Mud Creek attached).
2. **SKYLINE** took samples of the 001 effluent on August 28th. The table below shows the results.

Sampling Location/Date	Parameter/Time	Concentration	Permit limit
001 Effluent 8/28/01	TSS/0930	171 mg/L	30-day Average = 25 mg/L 7-day Average = 35 mg/L Daily Max = 70 mg/L
001 Effluent 8/28/01	TSS/1450	40 mg/L	Same as above
001 Effluent 8/28/01	T-Fe/0930	2.6 mg/L	1.0 mg/L

VIOLATIONS

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

1. Effluent limits for total suspended solids and total iron under Part I.D. of UPDES permit No. UT0023540 on 8/28/01.
2. The Act, 19-5-107 (1)(a) and *UAC R317-2-7.2* for discharging pollutants (coal fines) to waters of the State that caused unnatural deposits on the ground and in the water causing a nuisance (See pictures attached of Mud Creek).

ORDER

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

1. Comply with Part I.D of UPDES permit UT0023540, UCA 19-5-107(1)(a) and UAC R317-2-7.2
2. Submit within 30 days of receipt of this **ORDER** a detailed report providing the following:

- A. The chronology (dates and times) of events leading up to , during and following the discharge violations cited above including the identification of the cause of the problem.
- B. All effluent quality data collected from August 1, 2001 to September 30, 2001 and associated discharge flow.
- C. A determination if the present discharge flow is causing any erosion problems within Eccles and/or Mud Creek.
- D. Actions taken and/or planned to be taken to coal fines to comply with permit limits and to prevent future exceedances.
- E. Description of actions taken or planned to be taken, including schedules, to mitigate any damage to the stream.

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.

Compliance with the provisions of this **ORDER** is mandatory. The information requested will be considered in the evaluation of the extent of your compliance with the Water Quality Act and its underlying regulations and permit. Failure to respond fully and truthfully, or to adequately justify such failure to respond, may subject you to civil penalties or criminal fines under *UCA 19-5-115*.

All submittals made in response to this **ORDER** must be accompanied by the following certification, which is to be signed in accordance with *UAC R317-8-3.3(4)*: *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is , to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

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 31st day of October, 2001.

Utah Water Quality Board



Don A. Ostler, P.E.
Executive Secretary

P:canyonSkyline.nov

