

BEFORE THE BOARD OF OIL, GAS, AN MINING
DEPARTMENT OF NATURAL RESOURCES
in and for the STATE OF UTAH

IN THE MATTER OF THE VIOLATION OF)	
RULES MC 700 et seq., OF THE BOARD)	ORDER
OF OIL, GAS, AND MINING BY PLATEAU)	Cause No. ACT/007/006
MINING COMPANY, STARPOINT MINES,)	
CARBON COUNTY, UTAH	

This cause came on for hearing before the Board of Oil, Gas, and Mining, Department of Natural Resources, State of Utah, at 9:00 a.m., on Friday, July 27, 1979, in the Executive Room of the Holiday Inn, 1695 West North Temple, Salt Lake City, Utah. The following Board Members were present:

John Bell, Acting Chairman
Edward T. Beck
E. Steele McIntyre
Ray Juvelin

Also present and representing the Division:

Cleon B. Feight, Director, Division of Oil, Gas, and Mining
Thalia R. Busby, Administrative Assistant
Ron Daniels, Coordinator of Mined Land Development
Mary Ann Wright, Reclamation Biologist
Mike Thompson, Engineering Geologist
Tom Suchoski, Reclamation hydrologist
Jim Smith, Reclamation Soils Specialist
Denise A. Dragoo, Special Assistant Attorney General

Appearances were made as follows:

Plateau Mining Company:

Richard Lee
Tom Baily, President
Robert Gunnell
Sterling Davis
Jim Jensen, Attorney for Plateau Mining Company

NOW, THEREFORE, The Board having heard the testimony of the witnesses and having considered the evidence and being advised in the premises, now makes and enters the following:

FINDINGS OF FACT

1. Due and regular notice of the time, place and purpose of the hearing was given to all interested parties in the form and manner and within the time required by law and the rules and regulations of the Board.
2. The Board has jurisdiction over this matter and over the parties interested therein and has authority to issue the Order hereinafter set forth.

3. The Division of Oil, Gas, and Mining and the U.S. Office of Surface Mining conducted an inspection of Starpoint #1 & #2 Mine on January 9, 1979, during which ten violations of the Division MC Rules 700 et seq. were discovered.
4. The Division informed Plateau Mining Company of the Violations discovered at the above-mentioned mine and detailed the performance measures necessary to correct such violations in a letter to the company dated January 31, 1979.
5. The present proceedings are before the Board as an Order to Show Cause as to whether or not the Board should issue an abatement or compliance order against Plateau Mining Company for failure to correct violations discovered at the before-mentioned inspection of January 9, 1979.
6. The Board's Interim Order of June 27, 1979 found that violation's 2,4,5,6 & 10 had been abated to their satisfaction.

ORDER

IT IS THEREFORE ORDERED BY THE BOARD THAT:

1. The following violations are unabated and must meet the following requirements:

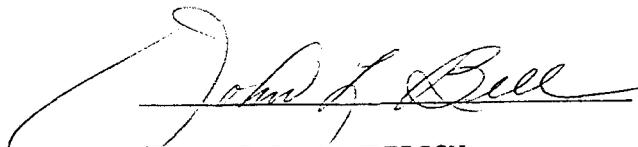
<u>Violation No.</u>	<u>Rule</u>	<u>Information Required</u>
1 & 9	MC 717.17	A preliminary hydrologic plan was to be submitted to the Division by August 8, 1979 and has yet to be received. In addition to submission of the preliminary plan, the operator should commit to a date certain for submission of the Vaughn Hanson and Associate's plan.
7 & 8	MC 717.15	<ol style="list-style-type: none">a. The Division has received the operator's certification that the upper coal processing pile is constructed in accordance with MC 717.15(b).b. The Division has not received hydrologic information concerning the upper coal processing pile. The operator must commit to a date certain for submission of such plan. (See Interim Order Violation 7 & 8 at b & c)c. A copy of the MSHA approval for the upper pile has not been submitted.d. The drawing of the final configuration of the waste disposal facility has been received and approved.

2. The Board has determined that the operator has made an adequate showing that a variance should be granted from the proposed methods of construction set forth by Rule MC 717.14(c). Geotechnical tests of Mr. Gunnell, the operator's consulting engineer, established that a static safety factor of 1.5 to 1.7 can be achieved by using proposed road construction techniques. This static safety factor comports with the present requirements of MC 717.14 and no variance will be issued with respect to this requirement.

The Board's variance is based upon the following factors:

1. The cut and fill method of road construction was demonstrated to be an accepted method of construction used by the State Department of Transportation in highway construction throughout the State.
2. The operator presented testimony demonstrating that the proposed cut and fill method of mining will cause less environmental degradation than would result from construction techniques set forth at MC 717.14(c). Mr. Davis of the Department of Transportation indicated that in the experience of the agency, greater erosion control and vegetation problems occur in a cut area than in a fill area. Construction techniques of MC 717.14(c) would create approximately 40% more highwall surface area than the proposed construction method. The road proposed will itself act as a type of erosion control and the company has committed to the revegetation of areas disturbed by construction activities.
3. Strict adherence to the storage requirements of MC 717.14(c) will cause greater environmental damage than the proposed construction techniques. Fill material placed on the downslope has been demonstrated to be reclaimable and also increases the stability of the road surface. In addition, the operator demonstrated that their mining site lacked available space to store fill material as required by Rule MC 717.14(c).
4. The operator demonstrated that the proposed road construction will not significantly degrade the local hydrologic regime. Roadway constructed at an earlier time on the south side of the canyon has demonstrated no mass movement nor deterioration of the hydrologic regime. The company testified that the new road will be built using similar construction methods to the old. Mr. Bailey, the President of Plateau Mining, indicated that the grade of the new road will be 10% to allow the road to catch run-off water and break the velocity of such waters. In this respect, the road may actually help prevent erosion which would add sediments to the hydrologic regime.
5. The present road to the Starpoint Mines now in use by the Company exceeds the 10% grade required by the Surface Mining Act. The Company has expended \$700,000.00 to date in planning and partial construction of the new road to meet this O.S.M. requirement. The Board has determined that the benefits of completing the new road using the cut and fill method are significant. The Company's commitment to revegetation of the filled area and to other mitigation of environmental disturbance caused by the road construction will offset the impacts of such construction.

SO ORDERED by the Board of Oil, Gas, and Mining, this 27th day of July, 1979.


FOR CHARLES R. HENDERSON
CHAIRMAN OF THE BOARD