

### Document Information Form

Mine Number: C/007/006

File Name: Incoming

To: DOGM

From:

Person N/A

Company OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Date Sent: APRIL 10, 1989

Explanation:

TEN-DAY NOTICE.

cc:

File in:  
C/007,006, Incoming

- Refer to:
- Confidential
  - Shelf
  - Expandable

Date \_\_\_\_\_ For additional information

UNITED STATES DEPARTMENT OF THE INTERIOR  
Office of Surface Mining  
Reclamation and Enforcement  
**TEN-DAY NOTICE**

Originating Office: Albuquerque Field Office  
625 Silver SW Suite 310  
Albuquerque, New Mexico  
Telephone Number: \_\_\_\_\_

Number: X-89-02-250-1 TV 1

Ten-Day Notice to the State of Utah, Division of Oil, Gas and Mining

You are notified that, as a result of \_\_\_\_\_ (e.g. a federal inspection, citizen information, etc.) the Secretary has reason to believe that the person described below is in violation of the Act or a permit condition required by the Act. If the State Regulatory Authority fails within ten days after receipt of this notice to take appropriate action to cause the violation(s) described herein to be corrected, or to show cause for such failure and transmit notice of your action to the Secretary through the originating office designated above, then a Federal inspection of the surface coal mining operation at which the alleged violation(s) is occurring will be conducted and appropriate enforcement action as required by Section 521(a)(1) of the Act will be taken.

Permittee: Cypress-Platoon County: Carbon  Surface  
(Or Operator if No Permit)  
Mailing Address: P.O. Drawer PMC, Price Utah 84501  Underground  
Permit Number: Act 007/006 Mine Name: Star Point  Other \_\_\_\_\_

NATURE OF VIOLATION AND LOCATION: Failure to install diversions at the site of the coal processing waste in accordance with the approved designs in the Mining and Reclamation Plan.  
Section of State Law, Regulation or Permit Condition believed to have been violated: \_\_\_\_\_

NATURE OF VIOLATION AND LOCATION: Diversions ditches 1A, B, 7E, 1E (A, B, E and F) and 8  
Section of State Law, Regulation or Permit Condition believed to have been violated: WMC 771.19

NATURE OF VIOLATION AND LOCATION: \_\_\_\_\_  
Section of State Law, Regulation or Permit Condition believed to have been violated: \_\_\_\_\_

Remarks or Recommendation: \_\_\_\_\_  
File in:  Confidential  Shelf  Expandable  
Refer to Record No. 0056 Date \_\_\_\_\_  
In C/ 007, 006 Incoming \_\_\_\_\_  
For additional information \_\_\_\_\_  
Date of Notice: Centjans  
P 201 229 308  
4/7/89, tdm  
Print Name and ID: John G. Rathbun

APR 10 1989  
DIVISION OF OIL, GAS & MINING

UNITED STATES DEPARTMENT OF THE INTERIOR  
Office of Surface Mining  
Reclamation and Enforcement  
**TEN-DAY NOTICE**

Originating Office: Albuquerque Field Office  
625 Silver SW Suite 310  
Albuquerque, New Mexico  
Telephone Number:

Number: X-89-02-250-1 TV 1

Ten-Day Notice to the State of Utah, Division of Oil, Gas and Mining

You are notified that, as a result of \_\_\_\_\_ (e.g. a federal inspection, citizen information, etc.) the Secretary has reason to believe that the person described below is in violation of the Act or a permit condition required by the Act. If the State Regulatory Authority fails within ten days after receipt of this notice to take appropriate action to cause the violation(s) described herein to be corrected, or to show cause for such failure and transmit notice of your action to the Secretary through the originating office designated above, then a Federal inspection of the surface coal mining operation at which the alleged violation(s) is occurring will be conducted and appropriate enforcement action as required by Section 521(a)(1) of the Act will be taken.

Permittee: Cypress-Platoon County: Carbon  Surface  
(Or Operator if No Permit)  
Mailing Address: P.O. Drawer PMC, Price Utah 84501  Underground  
Permit Number: Act 007 1006 Mine Name: Star Point  Other

NATURE OF VIOLATION AND LOCATION: Failure to install diversions at the site of the coal processing waste in accordance with the approved designs in the Mining and Reclamation Plan.  
Section of State Law, Regulation or Permit Condition believed to have been violated:

NATURE OF VIOLATION AND LOCATION: Diversim ditches 1A, B, 7E, 1E (A, B, E and F) and 8  
Section of State Law, Regulation or Permit Condition believed to have been violated: WMC 771.19

NATURE OF VIOLATION AND LOCATION: \_\_\_\_\_  
Section of State Law, Regulation or Permit Condition believed to have been violated: \_\_\_\_\_

Remarks or Recommendations: \_\_\_\_\_  
APR 17 1989  
DIVISION OF OIL GAS & MINING

Date of Notice: Certified # Signature of Authorized Rep.: [Signature]  
P 201 229 308 Print Name and ID: Stephen G. Rathbone  
4/7/89, tdm

United States Department of the Interior  
Office of Surface Mining  
Mine Site Evaluation Inspection Report

For Office Use Only

1a Y Y M M	1b Batch	1c Report
---------------	-------------	--------------

2. Name of Permittee

Plateau Mining CO

3. Street Address

PO Drawer PMR

4. City

Price

5. State

UT 6

6. Zip Code

84501

7. Area Code

801

8. Telephone Number

637-2875

9. MSHA Number

42-00170-

10. Date of Inspection (Y Y M M D D)

890403

11. State Permit Number

ACT 007/006

12. Name of Mine

Star Point

13. County Code

007

14. State Code

UT

15. Strata

01

17. OSM Field Office No.

02

18. OSM Area Office No.

19. OSM Sample No.

20. Type of Inspection (Code)

ADMIN

21. Joint Inspection Yes No

Yes  No

22. Inspector's ID No.

250

23. Status

- A  71 Type of Permit
- B  A Mine Status (Code)
- C  20 Type of Facility (Code)
- D  06149.02 Number of Permitted Acres
- E  00221.06 Number of Disturbed Acres

24. Type of Activity (check applicable boxes).

- A  Steep Slope
- B  Mountain Top Removal
- C  Prime Farmlands
- D  Alluvial Valley Floors
- E  Anthracite
- F  Federal Lands
- G  Indian Lands
- H  Other

25. Performance Standards (Codes)

Instructions: Indicate compliance code. For any standard marked 2 or 3 provide narrative to support this determination.

Standards That Limit the Effects to the Permit Area

- A  Distance Prohibitions
- B  Mining Within Permit Boundaries
- C  Signs and Markers
- D  Sediment Control Measures
- E  Design and Certification Requirements--Sediment Control
- F  Effluent Limits
- G  Surface Water Monitoring
- H  Ground Water Monitoring
- I  Blasting Procedures
- J  Haul/Access Road Design and Maintenance
- K  Refuse Impoundments
- L  Other: Specify \_\_\_\_\_

Standards That Assure Reclamation Quality and Timeliness

- M  Topsoil Handling
- N  Backfilling and Grading
- O  Following Reclamation Schedule
- P  Revegetation Requirements
- Q  Disposal of Excess Spoil
- R  Handling of Acid or Toxic Materials
- S  Highwall Elimination
- T  Downslope Spoil Disposal
- U  Post Mining Land Use
- V  Cessation of Operations: Temporary
- W  Other Refuse Diversion Ditch  
Designs

United States Department of the Interior  
Office of Surface Mining  
Mine Site Evaluation Inspection Report

26. State Permit Number

ACT 007/006

27. Date of Inspection  
(Y M M D D)

8 9 0 4 0 3

28. Yes  No  Do mining and reclamation activities on the site comply with the plans in the permit?  
 If no, provide narrative to support this determination:

29. Indicate number of complete and partial inspections conducted by the State to date for this annual review period:

29a.  Number of Completes N/A

29b.  Number of Partials

30. Indicate number of complete and partial inspections required by the State during this annual review period:

30a.  Number of Completes N/A

30b.  Number of Partials

31. Has inspection frequency been met?

31a. Yes  No  Completes N/A

31b. Yes  No  Partials

32. FEDERAL ENFORCEMENT INFORMATION. [Enter violation number. Check appropriate box(es)]

Ten-Day Notice No.	Notice of Violation No.	Cessation Order No.	Violation Codes
89-02-34-1			
A <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Authorizations to Operate
B <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signs and Markers
C <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Backfilling and Grading
D <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Highwall Elimination
E <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rills and Gullies
F <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Improper Fills
G <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Topsoil Handling
H <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sediment Ponds
I <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Effluent Limits
J <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Water Monitoring
K <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Buffer Zones
L <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Roads
M <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dams
N <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Blasting
O <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Revegetation
P <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Spoil on the Downslope
Q <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mining Without Permit
R <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Exceeding Permit Limits
S <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Distance Prohibitions
T <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Toxic Materials
U <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other Violations

33. Name of Authorized Representative (print or type)

Stephen G. Rathbun

Signature of Authorized Representative  
Carl H. Cook for Steve Rathbun

Date  
4-7-89

Signature of Reviewing Official  
Gary French for Steve Rathbun

Date  
4/7/89

0 0 0  
0 0 0  
0 0 0  
0 1 0

Plateau Mining Company  
P.O. Drawer PMC  
Price, Utah 84501

Star Point Mine  
Utah Permit #007/006

Administrative Action  
April 3, 1989

This Ten-Day Notice (TDN) is being issued in direct response to a March 29, 1989 letter from the Assistant Director for Program Policy.

A random sample inspection of the Star Point Mine was conducted in September 1988. The inspection resulted in the issuance of a TDN to the state of Utah for the operator's failure to install diversion ditches at the site of the coal processing waste in accordance with the regulations. The Utah Division of Oil, Gas, and Mining (DOGM) and the Office of Surface Mining Reclamation and Enforcement (OSMRE) exchanged correspondence regarding the TDN. OSMRE ultimately found DOGM's response to be arbitrary, capricious, and an abuse of discretion. DOGM appealed the finding to the Office of the Deputy Director, OSMRE. The Assistant Director for Program Policy, acting on behalf of the Deputy Director's Office found that the DOGM analysis of the situation surrounding the TDN and their response to OSMRE constituted good cause. The Assistant Director for Program Policy also directed DOGM to reevaluate the diversion ditch design calculations in the approved plan and require a permit revision if the appropriate design event is not met.

On the basis of additional information, provided during the informal review however, the Assistant Director for Program Policy found that there is reason to believe that the existing channels are not installed in accordance with the designs approved in the MRP. Accordingly, by his letter of March 29, 1989, the Assistant Director for Program Policy directed the Albuquerque Field Office to issue a TDN to DOGM addressing the alleged problem. A copy of the March 29, 1989 letter is attached.



# United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
WASHINGTON, D.C. 20240

L. Braxton

29 MAR 1989

RECEIVED  
MAR 30 1989

Dianne R. Nielson, Ph.D.  
Director, Division of Oil, Gas,  
and Mining  
Utah Department of Natural  
Resources  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203

DIVISION OF  
OIL, GAS & MINING

*Rick - we've got to  
but track this. Let's  
discuss  
4/3-3/80*

Dear Dr. Nielson:

This is in response to your February 23, 1989 request for informal review of ten-day notice No. X-88-02-107-9 concerning Cyprus-Plateau Mining Company, Starpoint Mine, Permit No. ACT/007/006. The ten-day notice alleges that diversion channel designs for a coal waste pile approved in the Mining and Reclamation Plan (MRP) have not been designed to safely pass runoff from a 100-year, 6-hour precipitation event as required under the Utah program.

Your agency's initial response concurred that the correct storm event was not used in the approved channel designs but that the event used was of greater magnitude and therefore in excess of program requirements. The Albuquerque Field Office postponed rendering a decision at that time until your agency could consider additional technical information furnished by the Albuquerque Field Office to clarify and support their allegation.

Your agency's subsequent response was predicated on the assumption that the Albuquerque Field Office analysis of the channel designs used a different methodology from that used by the permittee. Consequently, your agency concluded that since the Utah program does not specify which design models must be used in designing channels, the model used by the permittee was acceptable to your technical staff, no permit defect existed. Based on your agency's understanding of the Albuquerque Field Office analysis at that time, this response constituted a showing of good cause.

In your request for informal review, you now acknowledge the Albuquerque Field Office's contention that their analysis used the same methodology as the permittee in calculating the appropriate designs and you propose that within thirty days of this notification your agency will reevaluate the design

Dr. Dianne R. Nielson

2

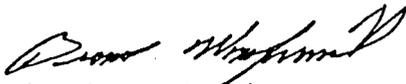
calculations in the approved plan and require a permit revision, if the appropriate design event is not met. Therefore, I find that your response to the ten-day notice constitutes good cause under 30 CFR 842.11(b)(1)(ii)(B)(4)(ii) and hereby reverse the written determination of the Albuquerque Field Office Director.

Please inform the Albuquerque Field Office of the results of your reevaluation of the designed calculations upon completion of your review within the thirty day period stated in your request for informal review.

You also state in your request for informal review that the ten-day notice concerns a design issue and not a performance standard issue. However, the record in this case indicates that soon after refuting the existence of the channel design defect, your agency directed the permittee by letter (following an on-site visit) to initiate grading and other remedial work necessary to assure the existing channels at the minesite are maintained to safely pass the required 100-year, 6-hour storm design. Although a letter to the permittee would be an appropriate action under 30 CFR 842.11(b)(1)(ii)(B)(4)(ii) where your agency finds that an approved design needs to be revised to comply with the approved program, a letter cannot be used as a substitute for an enforcement action to direct a permittee to undertake remedial action to bring an operation into compliance with the approved MRP.

In this regard, your agency's action provides reason to believe that the existing channels are not installed in accordance with the designs approved in the MRP. Accordingly, by this letter I am directing the Albuquerque Field Office to issue a ten-day notice to your agency addressing this alleged problem.

Sincerely,

  
Assistant Director  
Program Policy

cc: Robert H. Hagen  
Director, Albuquerque Field Office

Raymond Lowrie  
Assistant Director, Western Field Operations

Plateau Mining Company  
P.O. Drawer PMC  
Price, Utah 84501

Use this  
in TDN