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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340
(801) 359-3940 (Fax)

March 2, 1998

To: File

Thru: Joe Helfrich, Permit Supervisor, Compliance

From: Wm. J. Malencik, Reclamation Specialist

Handwritten signatures in black ink, including one that appears to be 'JGH' and another that is more cursive and difficult to decipher.

RE: Pattern of Violation Meeting, Cyprus Plateau Mining Company, Starpoint Mine, ACT/007/006, Folder #5, Carbon County, Utah

This has reference to a meeting held on August 5, 1997. The meeting concerned the following:

- (1) Starpoint two diversion violations.
-NOV #97-26-1-1, 3/27/97
-NOV #97-26-3-4, 6/13/97
- (2) Willow Creek three violations.

I attended, presented certain information (see attachment I), and prepared a follow-up memorandum dated August 6, 1997.

I did not attend the Willow Creek meeting that followed the Starpoint meeting. The Division was represented at that meeting by Ms. Wright. She would have those details and minutes of that meeting.

The matter was concluded a week or so later when, by an E-mail, Mr. Braxton, in substance, stated he was not going to prepare a letter to Cyprus Plateau Mining. We interpreted his E-mail that two aforementioned cases were closed.

As related to Starpoint, it can only be concluded that management did not adopt my recommendations. However, Starpoint management did develop an action plan even though one was not mandated by the Division.

sd
enclosures





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August 6, 1997

To: Attendees

From: Wm. J. Malencik

RE: Meeting Minutes, Starpoint Mine, NOV's, Alleged Cause, Pattern of Violation

Meeting Date: August 5, 1997

Length of Meeting: One hour (11:00 a.m.-12:00 p.m.)

Who Requested the Meeting: Plateau Mining Corporation

Where Held: Starpoint Mine

People Present: Plateau Mining Corporation
Keith Siebert, Vice President of Western Coal Operations
Art Palm, Starpoint Mine Manager
John Pappas, Environmental Engineer
Ralph Moosman, Surface Foreman
Division of Oil, Gas, and Mining
Mary Ann Wright, Associate Director
Bill Malencik, Reclamation Specialist

Agenda: See Attachment I

Alleged NOV Causative Factors: See Attachment II

Goal of Meeting:

-Identify factors that are alleged, and may have contributed to diversion failures and violations:

NOV 97-26-1-1 dated 3/27/97

NOV 97-26-3-4 dated 6/13/97

-Explore how to minimize risk of third violation which will then require the Director to perform mandatory violations review as related to pattern of violations. (R645-400-332.300) vs two violations which is discretionary (R645-400-332.100) and is applicable to the two aforesaid NOV's.



Conclusions Reached:

Undersigned based on facts presented pro and con, analysis, concluded the meeting with the following findings:

- 1) That the Starpoint mine officials and their employees exercised prudent judgement and action to keep the diversions in conformance with the coal rules.
- 2) That there were five factors largely out of control of the operator, three in his control that were suspected to be the cause of the March NOV. Some of the aforementioned factors may have had a latent minimal effect on the June NOV. However, the high intensity rainstorm the day before the inspection, was suspected to be the primary cause of the June NOV. Starpoint mine has approximately 100 diversions embracing 16 miles and 80 culverts.
- 3) That the Starpoint mine officials and employees made reasonable program adjustments to ameliorate all alleged causative factors. This included formal training of the new surface personnel, on-the-job training, and hired an outside contractor the past summer, winter, and spring to augment the capability of the in-house staff on diversions, refuse pile, and other environmental work.

Recommendations/Findings:

- I. Undersigned recommends that Mr. Carter decline to conduct a discretionary review as provided by the coal rules of the aforementioned two NOV's because of the following findings:

- No indication or even perception that any employee took any willful action to cause the diversion failures.
- Reasonable care was exercised.
- No evidence or perception of indifference by Starpoint employees or management.
- The Starpoint managers, supervisors, and employees exercised due diligence.

On the other hand, if the mine did not make the aforementioned program adjustments, see attachment II, perhaps my recommendations would have been different.

- II. Undersigned recommends that Mr. Carter request Mr. Palm develop a REPEAT DIVERSION PREVENTATIVE ACTION PLAN FOR HIS INTERNAL USE by August 19, 1997.

Follow-up Action

- 1) Director prepare a letter/decision on the review of the two NOV's as related to "pattern of violations", including DOGM assistance on plan development if requested by mine officials.
- 2) Starpoint mine manager scheduled a "BRT" meeting for 8/5/97 at 3:00 p.m. to initiate the preparation of the preventative action plan with a completion date of August 19, 1997.



Wm. J. Malencik
Reclamation Specialist

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cc: James Carter, Director
Joe Helfrich, Permit Supervisor

MEETING / COMPLIANCE / STARPOINT MINE

DATE OF MEETING: AUGUST 5, 1997

WHO REQUESTED MEETING: STARPOINT MINE OFFICIALS

PURPOSE OF MEETING: DISCUSS COMPLIANCE MATTERS/BRAINSTORM PLAN TO PREVENT THIRD VIOLATION

DISCUSSION OUTLINE: (MALENCIK)

I. MEETING GOAL

-LET'S DEFINE THE PROBLEM

-WHAT AN ACCEPTABLE SOLUTION MUST DO

II. BACKGROUND

-DOMINANT THOUGHTS

-STYLE OF OPERATION

-MINE ENVIRONMENTAL TOOL CHEST

-WHAT HAPPENED LAST SUMMER/WINTER/THIS SPRING-
DIVERSIONS/REFUSE PILE

III. ANALYSIS

IV. RECOMMENDATION

ATTACHMENT II

ALLEGED CAUSATIVE ENVIRONMENTAL FACTORS THAT THE OPERATOR COULD NOT CONTROL

- A) UNEXPECTED GEOLOGIC CONDITIONS
- B) INORDINATE WINTER SNOWFALL
- C) AS A RESULT OF A) SIGNIFICANT INCREASE IN WET REFUSE
- D) UNUSUAL WET SPRING RAINS
- E) INORDINATE RUNOFF

ALLEGED CAUSATIVE ENVIRONMENTAL FACTORS THAT THE OPERATOR COULD CONTROL

- A) REFUSE PILE DIDN'T GO INTO THE WINTER IN THE BEST
SHAPE
- B) SNOW REMOVAL ON THE REFUSE PILE WASN'T AS GOOD AS IT
SHOULD HAVE BEEN.
- C) PERSONNEL CHANGES / PERSONNEL TRANSFER TO WILLOW
CREEK
- D) PROGRAM ADJUSTMENTS

PROGRAM ADJUSTMENTS

- A. FORMAL CLASSROOM TRAINING
- B. ON-THE-JOB TRAINING
- C. RECALL AND RETURN SUPERVISOR, MIKE KELLY, FROM THE
WILLOW CREEK MINE TO ASSIST WITH SURFACE OPERATIONS
- D. EMPLOYED OUTSIDE CONTRACTOR