

0017

**KAISER
COAL**

KAISER COAL CORPORATION
OF YORK CANYON
P. O. BOX 1107
RATON, NEW MEXICO 87740
(505) 445-5536

RECEIVED
SEP 29 1989

DIVISION OF
OIL, GAS & MINING

*filed
ACT/007/007
CC LEB*

September 26, 1989

Mr. Joseph C. Helfrich
Assessment Officer
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Dear Mr. Helfrich:

I have recently received the Proposed Assessment for State Violation No. C-89-25-1-1, ACT/007/007, Folder #5, Carbon County, Utah. It is the contention of the Kaiser Coal Corporation that this particular citation has been inappropriately assigned to Kaiser Coal.

As you may know, the Kaiser Coal Corporation has been in Chapter 11 Bankruptcy status since February 13, 1987. On March 9, 1989, the Kaiser Coal Corporation sold its Sunnyside Mines to an entity known as Sunnyside Reclamation and Salvage (SRS). Documents which attach your 9/18/89 Assessment Notice clearly show that the particular incident in question occurred on April 15, 16, 17, 18 and 19, 1989 -- well after the consummation of the sale of the Sunnyside Properties. Additionally, the attached 4/21/89 memorandum from Mr. Larry B. Dalton to Mr. Bill Malencik specifically refers to Sunnyside Reclamation and Salvage Inc. as the party involved in this incident. Attached to this correspondence are copies of the above material.

On April 11, 1989, Director Dianne R. Nielson issued a memorandum to Ms. Denise A. Dragoo, Esq., of Fabian & Clendenin, granting conditional approval of the transfer of the Sunnyside Mine Permit to SRS. This action was taken four days prior to the occurrence which resulted in State Violation No. C-89-25-1-1. A copy of this memorandum is also attached for your information.

Finally, enclosed please find a copy of a complete and final release, dated March 9, 1989, which seems to indemnify the Kaiser Coal Corporation from "... obligations, liabilities...in conjunction with the operation of the Debtor's Sunnyside Mine under permanent program permit No. ACT/007/007."

Mr. Joseph C. Helfrich
Assessment Officer
September 26, 1989
Page 2

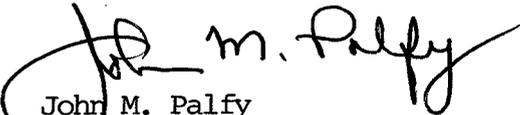
Clearly, since the Kaiser Coal Corporation had no presence whatsoever in the operation of the Sunnyside Mines during the dates in question, the responsibility for the occurrence must be elsewhere. I respectfully submit that State Violation No. C-89-25-1-1 is incorrectly assigned to the Kaiser Coal Corporation.

I am not certain whether the technical aspects of this situation require that the Kaiser Coal Corporation formally request an Assessment Conference. If this remains the case, for the reasons stated previously, the Kaiser Coal Corporation respectfully requests such a conference to delete the Kaiser Coal Corporation as the responsible party liable for this particular situation and the assessed fine of \$3,750.00.

I can certainly understand how the transfer of properties such as those of the Sunnyside Operation could lead to an oversight such as this. If you have any questions on this matter, please do not hesitate to call me at (505) 445-2395.

Very truly yours,

KAISER COAL CORPORATION


John M. Palfy
Agent - Kaiser Coal Corp.

JMP:mcs

cc: Barbara W. Roberts, Assistant Attorney General
Denise Dragoo, Esq.
Hal Lewis, Esq.
Cassie Boggs, Esq.
George Bartlett, Jr.
Stonie Barker, Jr.
Vicki Bailey



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangertter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triun Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

RECEIVED
SEP 21 1989
ANS 3

September 18, 1989

CERTIFIED RETURN RECEIPT REQUESTED
P 075 063 199

Mr. John Palfy
Kaiser Coal Company
P.O. Box 1107
Raton, New Mexico 87720

Dear Mr. Palfy:

Re: Proposed Assessment for State Violation No. C-89-25-1-1, ACT/007/007, Folder #5, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.20.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Tom Munson on April 19, 1989. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Submit a request for conference to Vicki Bailey, at the above address).

IF A TIMELY REQUEST IS NOT MADE, THE PROPOSED PENALTY(IES) WILL BECOME FINAL, AND THE PENALTY(IES) WILL BE DUE AND PAYABLE WITHIN THIRTY (30) DAYS OF THE PROPOSED ASSESSMENT. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

Joseph C. Helfrich
Assessment Officer

jb
Enclosure
MN39/8

WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Kaiser Coal Company

CO # C-89-25-1-1

PERMIT # ACT/007/007

VIOLATION 1 OF 1

INSPECTOR Tom Munson

DATE ISSUED 4/19/89

NATURE OF THE CESSATION ORDER: Failure to abate Notice of Violation
N-89-26-1-1

DATE OF ABATEMENT OF CESSATION ORDER: April 20, 1989

DATE OF RECEIPT OF CESSATION ORDER: Notified by phone 4/18/89, sent
via Airborne Express 4/19/89 #513 653 324

LIST THE DAYS OF FAILURE TO ABATE: April 15, 16, 17, 18 and 19, 1989
See Attachment

TOTAL NUMBER OF DAYS OF FAILURE TO ABATE: 5

NUMBER OF DAYS X \$750.00/DAY = TOTAL ASSESSED FINE: \$3,750.00

ASSESSMENT DATE 9/18/89

ASSESSMENT OFFICER Joseph C. Helfrich

\$3,750.00 PROPOSED ASSESSMENT

\$3,750.00 FINAL ASSESSMENT

jb
Attachment
MN38/8



Norman H. Bangertter
Governor
Dee C. Hansen
Executive Director
Timothy H. Provan
Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WILDLIFE RESOURCES

Southeastern Region
455 West Railroad Avenue
Price, Utah 84501-2829
801-637-3310

Mine file (007/007 #2)

cc. R. Smith
D. Warden
T. Munson
B. Stettler

(10)

RECEIVED
APR 24 1989

DIVISION OF
OIL, GAS & MINING

April 21, 1989

Mr. Bill Malencik
Utah Division of Oil, Gas & Mining
Box 169
451 East 400 North
Price, UT 84501

Ref: Sunnyside Reclamation and Salvage/Discharge of Sludge From Pole Canyon UPDES Discharge Facility (UT0022942)

Dear Bill: *5/16/89 gpm*

Sunnyside Reclamation and Salvage Inc.'s mine water discharge pipe that flows 1.65 million gallons of water per day into the Pole Canyon UPDES (UT0022942) discharge pond, broke on Saturday, April 15, 1989. It was repaired that day, but its support blocks slipped allowing the water to discharge against the pond's bottom rather than onto the surface. The intense velocity of the water stirred up a black sludge primarily composed of coal fines, thus the pond discharged a high level of suspended solids into Grassy Trail Creek. Its effluent remained clouded as of April 20, 1989, in spite of a series of straw settling basins and filter dikes placed by the mine in the 300 foot segment of Pole Canyon Creek between the pond and Grassy Trail Creek. Exxon Chemicals (Sam Deal) was on site assessing how to treat the Pole Canyon Pond in order to control discharge of the suspended solids.

During a routine mine inspection on Tuesday, April 18, 1989, a Division of Oil, Gas & Mining employee (Jim Munson) noted the ongoing discharge. DOGM (Brent Stettler) notified DWR (Larry Dalton and Walt Donaldson) early morning on Wednesday, April 19, 1989. It was then recommended that DOGM advise the mine to place a series of sediment traps in Grassy Trail Creek at the farthest downstream point where the sludge could be identified in order to contain it in the shortest reach of stream as possible. DWR, on April 19, 1989, notified Southeastern Utah's Division of Environmental

Health (secretary) of the problem, also. The mine, on April 19, 1989, placed a series of temporary sediment traps and filter dikes below the Pole Canyon Pond's effluent in order to lessen the amount of sludge reaching Grassy Trail Creek. DWR contacted the mine (Carl Housekeeper) at 1:15 PM, April 19, 1989, to express concern relative to damage of Grassy Trail Creek's substrate from the black sludge. The mine was advised that it would be prudent to contain the sludge in as short a stream length as practicable in order to lessen further impacts to the stream's biotic system and ultimate clean up costs.

On April 20, 1989, DOGM (Bill Malencik, Lynn Kunzler, and Brent Stettler) and DWR (Larry Dalton) personnel, as well as mine officials (Bill Balaz and Carl Housekeeper) inspected the problem area. A 0.76 mile length of Grassy Trail Creek between Pole Canyon and Pasture Canyon evidenced substantial degradation of the substrate due to adherence of the sludge. Macroinvertebrates were essentially eliminated (only crane fly larvae could be found) in the upper segment immediately below Pole Canyon. (Note, they had earlier been reduced by 91% due to an oil spill caused by the mine. Fish life had also been eliminated by the March 24, 1989 oil spill.) It was determined that the substrate needs to be mechanically cleaned of the sludge in order to facilitate recovery of the streams biotic communities.

It was recommended that the mine immediately place a series of at least five temporary sediment traps/filter dikes within Grassy Trail Creek at Pasture Canyon. A larger series could be needed, but the goal is to discharge clear water from the last filter dike. This will contain the sludge within the stream length where it currently exists. There is evidence that flows are moving the material further downstream, and a precipitation event would accelerate that process. Cost for cleanup can be minimized by the company containing the sludge where it now lies. Additionally, the mine must stop the discharge of sludge from the Pole Canyon Pond. Hopefully, Exxon Chemical Company will find an environmentally safe technique to precipitate the suspended solids with an anion treatment and/or float them with a cation treatment and ultimately capture the coal fines and other compounds of the sludge. Any chemical treatment of the pond must assess threats to macroinvertebrates and rainbow trout.

It is further recommended that the substrate be cleaned (vacuumed) with a hydro-dredge. Such a process has been successfully utilized to clean up a gilsonite spill on a similar size and local creek (Willow Creek in Carbon County which lies adjacent to U-191). This action should occur immediately upon cessation of the sludge discharge from the pond.

Bill, the Pole Canyon UPDES discharge pond needs to be cleaned of sludge. It may be advantageous to temporarily discharge from the mine water pipe directly into the Pole Canyon drainage. Possibly the mine water could be diverted to another discharge area, then the pond could be allowed to dry and be cleaned.

*W Councils would
please see a second
water pit*

If the division can be of any further assistance, please don't hesitate to give me a call.

Sincerely,

Larry B Dalton
Larry B. Dalton
Wildlife Program Manager
Resource Analysis/Habitat Protection

LBD/rrd

cc: Bill Balaz, SRS
Lowell Braxton, DOGM
RAS/SLO
EPA



Norman M. Bangertter

Governor

Dee C. Hansen

Executive Director

Dianne R. Nielson, Ph.D.

Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple

3 Trade Center, Suite 360

Salt Lake City, Utah 84190-1203

801-538-5340

April 11, 1989

Ms. Denise A. Dragoo, Esq.
Fabian & Clendenin
215 South State Street
Salt Lake City, Utah 84151

RE: Conditional Approval of Permit Transfer, Sunnyside Mine,
Sunnyside Reclamation and Salvage, Inc., ACT/007/007, Folder #2,
Carbon County, Utah

Dear Ms. *Denise* Dragoo:

The Division reviewed, under UMC 788.18, the draft permit transfer application received April 7, 1989. Several minor text corrections were identified and relayed to you via a telephone conversation with Pamela Grubaugh-Littig on April 10, 1989.

The transfer of the Sunnyside Mines permit is conditionally approved, the corrected transfer application, pending receipt of and completion of public notice ad comment, Kaiser should initiate public notice at this time and send a copy of the newspaper notice to the Division.

Thank you for your help in completing the transfer.

Best regards,

Dianne
Dianne R. Nielson
Director

ksg

cc: Lowell P. Braxton
Richard V. Smith

AD457/12

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Entry No. **023283**
Indexed _____
Abstracted _____
Reg. Fee 390.00

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FINAL RELEASE AND DISCHARGE

STATE OF UTAH
COUNTY OF GARFIELD
FILED AND RECORDED FOR

S.E. Utah Title
Mar 10 2 12 PM '89

BOOK 287 OF RECORDS
PAGE 156-194
ANN B. O'NEIL
COUNTY RECORDER

1. This memorandum is the integrated expression of complete and final release and discharge by the Utah Division of Oil, Gas and Mining, an agency of the State of Utah within the Department of Natural Resources, acting for itself and its successors and assigns to the fullest extent authorized by law ("Releasor").

2. The intended beneficiaries of this final release and discharge (herein referred to as the "Release") are Kaiser Coal Corporation, Kaiser Coal Corporation of Sunnyside, Kaiser Coal Corporation of Utah, and Kaiser Steel Corporation, together with, for each, all officials, officers, directors, agents, employees, attorneys, personal representatives, heirs, executors, administrators, subsidiaries, successors and assigns of each of them (collectively referred to as the "Debtors").

3. Releasor acknowledges the receipt of sufficient consideration for this Release, which consideration includes settlement of all Claims (as defined herein) between Releasor and the Debtors.

4. The matters encompassed by this Release are actions, suits, causes of action, accounts, judgments, agreements, promises, executions, debts, damages, demands, rights, obligations, liabilities, and controversies of every nature and description, in law or in equity, whether known or unknown, mature or contingent, direct or indirect, pleaded or unpleaded, suspected or unsuspected, arising from reclamation liability in conjunction with the operation of the Debtors'

IN BOOK 287 PAGE 156-194
COUNTY RECORDER
ANN B. O'NEIL
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STATE OF UTAH
COUNTY OF GARFIELD
FILED AND RECORDED FOR

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Sunnyside mine under permanent program permit No. ACT/007/007, including, but not limited to, liability arising under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1201 et seq., respectively, Utah Code Annotated (1953, as amended), and any federal or state regulations promulgated to implement said acts (herein collectively referred to as the "Claims"), from the beginning of time to the date of this Release.

5. Releasor acknowledges that it may hereafter discover facts in addition to or different from those which it now knows or believes to be true with respect to the matters encompassed by this Release and discharge, but that it is the intention of Releasor to, and it does hereby, generally, fully, finally and forever settle, release and discharge all Claims which now exist, may exist or may hereafter be claimed to exist, within the scope of this Release. In furtherance of such intention, Releasor acknowledges that the Release herein given shall be and remain in effect as a full, final and complete release and discharge of all matters encompassed herein notwithstanding the discovery or existence of any such additional or different facts.

6. This Release may not be changed orally and can be changed only by the written agreement of duly authorized representatives of each of the Debtors.

7. Nothing in this Release, whether express or implied, shall confer any rights or remedies under or by reason of this Release on any person, group or entity other than the Debtors.

642 ~~702~~

8. This Release is governed by the law of the State of Utah, without regard to the conflicts of law rules of such state.

9. The person executing this Release represents and warrants that he or she is a duly authorized representative of the named undersigned party, and has authority to execute this Release on behalf of that named undersigned party.

Dated: March 9, 1989.

DAVID L. WILKINSON
Utah Attorney General

By: *Barbara W. Roberts*
Barbara W. Roberts
Assistant Attorney General
236 State Capitol
Salt Lake City, Utah 84114