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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Donna

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Governor

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December 28, 1989

TO: Division Staff

FROM: Dianne R. Nielson, Director *DRN*

RE: Recent News Coverage Concerning Enforcement of the Coal Regulatory Program

Many of you are aware of the attached Sun Advocate article. My response, in a Letter to the Editor, is attached. This issue also received attention by Reece Stein, KUTV, in three separate newscasts.

First, those of you who aren't directly involved in this issue should know "the rest of the story."

Second, and more importantly, I want to thank each of you for the professional manner in which you conduct the Division's business. Disagreements on technical and policy issues between agencies should be handled by the agencies, including appeals to upper levels of management, when necessary. Airing a problem to the press is not a substitute for solving the problem. The Division works with a variety of agencies, industries and public interest groups. You have gained their respect in part because of your professionalism and commitment to working together to find and implement solutions. When you have worked with and responded to the press, it has been with honesty and integrity.

I respect you and commend you for this. Thank you. Keep up the good work!

ksg
Attachments
AD556/45

Scott,
If you already
have a copy
of this in Sunnyside
ACT/007/007/ feel free
to toss this copy.
D

Lest we forget
Former members of the 27 miners killed in the Wilberg Mine five years ago remembered the event in many ceremonies last Tuesday. Both the Wilberg and Cottonwood mines were closed for one day in observance of the tragedy.

Utah coal industry cannot afford a severance tax on coal, he explained. The tax credit would face its greatest opposition from proponents of such a tax.
"I submitted the bill last year and couldn't get it out of committee. At least by filing the bill this year we can show we don't need any additional taxes," said Dmitrich. "The coal industry cannot tolerate any additional taxes and still be competitive with neighboring states."
Dmitrich patterned the proposal after similar laws in Colorado and Oklahoma. Such government will probably be most important.
Because education is in need and social programs have been cut in the past, dealing properly with all areas of state government will be a challenge, according to Dmitrich.
"There's not enough money in Utah to make everyone happy. We'll have to take care of the priorities," he said.
The state representative will be making an effort to change the bill submitted by the Utah Liquor Tax Force, which he says discriminates (Continued on Page 2A)

Once again

Sun Advocate 12/21/89

Mine oil spill kills fish in Grassy Trail

By LAYNE MILLER
Staff writer
Sunnyside Reclamation Salvage in Sunnyside has been the cause of another fish kill in Grassy Trail Creek. Division of Wildlife Resources personnel said an oil spill early last Sunday morning has decimated the fish population in 3.3 miles of the creek. A similar spill in March killed over 1,500 wild rainbow trout, wiping out the entire population in the same stretch of water.
Larry Dalton, DWR fisheries biologist, said the most recent spill killed all the fish that were remaining in the stretch. "We don't know exactly how many fish were killed because the water was so

murky we couldn't see to the bottom," Dalton said. Officials electro-fished the stream and no fish came to the top, indicating the kill was total.
The spill is creating a controversy between the Division of Oil, Gas and Mining and the DWR. Even though the DOGM admits "there clearly was an unapproved oil spill," they don't agree with the cleanup suggested by the DWR. "They (DWR) would like to see the stream vacuumed, but some biologists believe that would also vacuum up the micro-invertebrates the fish eat," said Lowell Braxton, DOGM official. He said SRS officials claim the stream is cleaner now, even after the spill, than it was before 1980.

Braxton said the mine was fined approximately \$6,000 after the March spill and it will be reprimanded for the spill last weekend. He said the mine has not paid the first fine, but is appealing the fine and the citation. He did not know how SRS would be reprimanded this time.
SRS mine manager Bill Ballas said the mine has done everything it can to keep this type of thing from happening, including voluntarily building a bigger retention pond to hold the mine's runoff water. "We did that voluntarily," said Ballas, "as one told us to do it."
He said the spill was created when a pipe filled with hydraulic fluid feeding the number one longwall broke, releasing the fluid into the

stream.
Dalton said, "The toxic level was seven times higher than the acceptable level for the fish."
Officials believe the fish are native to Grassy Trail Creek. The Colorado cutthroat trout probably survived there for some time, as long-time residents of Sunnyside tell of catching fish in the stream 30-40 years ago.
DWR officials claim they are pushing DOGM to take more severe action against the company because of their "apparent lack of concern" about the environment. Dalton said, "This seems to happen frequently up there." He said other area mines are easier to work with than SRS. "They (the other mines) do

more for the environment than is even required of them," he said. To prove his point, Dalton said the March spill in Sunnyside has yet to be cleaned up. "There just seems to be a lack of care on the mine's part," he said.
One official, who wished not to be identified, suggested that DOGM is going easy on SRS because if the company goes under, as Kaiser did, the state of Utah will be responsible for the cleanup, because of the Kaiser bankruptcy. He explained DOGM allowed Kaiser to post its own bond for the reclamation of the area, so when they took out bankruptcy, the state was left holding the bag. "If SRS goes under, the state will be liable for the reclamation," he said.



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December 27, 1989

Letter to the Editor
Sun Advocate
Box 1870
76 West Main
Price, Utah 84501

Dear Editor and Readers:

I appreciate this opportunity to correct statements and perceptions in the December 21, 1989 Sun Advocate article concerning the oil spill at the Sunnyside Mine and Utah's coal mining regulatory program.

First, Utah has a comprehensive coal mining regulatory program, which is strictly enforced at all mines by the Utah Division of Oil, Gas and Mining (DOG M). The oil spills which occurred in March and December are violations of state rules and of the mine's permits. DOGM, as well as the Division of Environmental Health, Bureau of Water Pollution Control (Health), have fined Sunnyside Reclamation and Salvage, Inc. (SRS), for those violations, including payment for fish killed, and have required repairs, maintenance, and redesign, in order to avoid future spills and contamination of the stream. Because this is a "native" trout habitat and because there are sufficient trout upstream to re-populate the stream, Wildlife Resources has indicated that the money paid for the fish kill will not be used to restock Grassy Trail.

Second, the reclamation surety at the Sunnyside Mine is not a self bond. Reclamation is guaranteed by a collateral bond which has been posted by SRS. SRS, not the state, is liable for and has bonded to ensure full reclamation. DOGM is not "going easy" on SRS.

Third, there is no failure to require cleaning of the stream. DOGM, Health and Wildlife Resources agreed in November that SRS would not be required to vacuum the stream. The oil which entered the stream, because it is water soluble, does not adhere to the stream bottom. The material which is in a 3/4 mile stretch of the stream is flocculant, a material which has been approved by Wildlife Resources, DOGM and Health to remove oil from the mine water. The flocculant has been scraped from rocks in the stream and analyzed by

both DOGM and Health, and found to contain no toxic levels of chemicals or oil/grease. Fish have utilized that portion of the stream and macroinvertebrates (food for the fish) have populated that portion of the stream subsequent to the March 1989 spill. The wisdom of vacuuming the stream has been considered by technical experts, and the company was told not to vacuum the stream. There is no failure of enforcement or compliance by either the regulatory agencies or the company.

Finally, let us look at the history of Grassy Trail Creek. The creek, above the mine, is fed by numerous springs and seeps and exists year-round. Before mining began at Sunnyside, the creek at and below the mine was often dry. Dewatering of the mine's underground workings now provides a continual supply of water to that portion of Grassy Trail Creek. In other words, water (and fish) occupy the creek bed year-round because the mine is there. Reported fish kill from the March spill alone is quoted by Wildlife Resources at over 1,500 fish. This is an estimate. It is based on the actual dead fish recovered and the estimated population of fish per mile of stream. In fact, 72 dead fish were recovered from 3.3 miles of stream in March, and five dead fish were found in an undisclosed length of stream in December.

I am not discounting the environmental impacts of the March and December spills. However, I want your readers to understand that such violations trigger both citations, often with substantial fines, and on the ground clean-up, restoration, and mitigation. Any efforts to clean up or restore an area must also consider the impact of the clean-up efforts on the natural environment. The record shows that, for the March incident, both the penalty process and the required remedial actions fit the mandate of the Utah Coal Regulatory Program. I am confident that the program will be enforced in reclamation of the December oil spill..

Sincerely,



Dianne R. Nielson
Director
Utah Division of Oil, Gas
and Mining