

Document Information Form

Mine Number: C/007/007

File Name: Outgoing

To: DOGM

From:

Person N/A

Company STATE OF UTAH

Date Sent: N/A

Explanation:

ASSESSMENT COMPETENCE IN THE MATTER OF STATE VIOLATIONS AND

PROPOSED ASSESSMENT

cc:

File in: C/007, 007, Outgoing

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Date _____ For additional information

BEFORE THE ASSESSMENT CONFERENCE
OFFICER, BOARD OF OIL, GAS AND MINING
STATE OF UTAH

ASSESSMENT CONFERENCE IN THE	:	RESPONSE BY THE DIVISION OF
MATTER OF STATE VIOLATIONS AND	:	OIL, GAS AND MINING, TO
PROPOSED ASSESSMENT C89-25-2-1,	:	SUNNYSIDE RECLAMATION &
PERMIT NO.ACT/007/007,	:	SALVAGE, INC.'S OBJECTION
FOLDER NO. 5, SUNNYSIDE	:	FACT OF VIOLATIONS AND
RECLAMATION & SALVAGE INC.,	:	CESSATION ORDERS AND
CARBON COUNTY, UTAH	:	PROPOSED ASSESSMENTS
	:	C89-25-2-1

The following is presented in response to the above-referenced written objections filed by Sunnyside Reclamation & Salvage, Inc. at the time of the Assessment Conference.

I. Cessation Order C89-25-2-1

A. Fact of Violation.

1. Mining Without a Permit.

In item I, A, 1, of SR&S's argument, SR&S alleges that they were operating in accordance with their UPDES Permit No. UT0022942 on April 19, 1989. The unpermitted mining activity that SR&S was cited for was deposition of sediment laden water into Grassy Trail Creek. Neither the Act, Utah Code Annotated 1953, nor the approved Mining and Reclamation Plan, nor the approved UPDES permit allow for this type of activity. The point at which the first deposition occurred was a non-permitted point source break in the water tank outlet line.

2. Failure to pass through a sediment control structure.

SR&S disputed the referenced allegation in the Cessation Order based upon the fact that the UPDES permit did not require pre-treatment of water discharged from the #015 line discharge point. The deposition of the sediment laden water occurred from a break in the #015 line as opposed to the UPDES permitted discharge point #015. The UPDES permit does not require pre-treatment of water from the #015 point if effluent limitations can be met. As such, SR&S provided no samples to demonstrate that the discharge from the non-permitted break in the #015 line was in compliance with the state and federal effluent limitations for water quality

standards. The samples taken, referred to as exhibit "G", were taken by Darin Worden, DOGM staff Hydrologist, from Grassy Trail Creek eleven days after the break occurred. To support their allegation of continuous compliance, SR&S would have had to have taken a sample at 11:30 a.m. on 4/9/89, the actual time of coal fine deposition to Grassy Trail Creek.

3. Significant Imminent Environmental Impact.

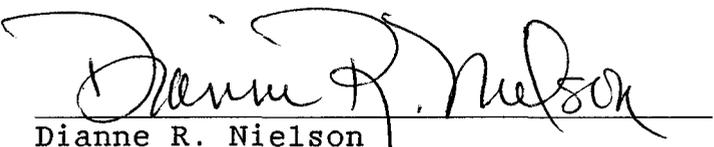
SR&S alleges that water samples taken by the permittee were in compliance with the effluent requirements of it's permit. DOGM does not contest the samples. However, the water samples were taken from the stream after the break and subsequent deposition of sediment laden water to Grassy Trail Creek. SR&S alleges that the DOGM failed to establish that the alleged deposition of coal fines violated water quality standards. DOGM did not site SR&S for violating water quality standards. The significant imminent environmental harm is not based on DOGM's data. Moreover, it is based on the verification of the permittee conducting mining activities without a permit.

B. Proposed Assessment.

3. Negligence.

It is true that the alleged second occurrence of the deposition of coal fines did result from the city flushing the water line from the tanks; thereby, causing coal fines to be discharged into the stream at the discharge point #015. SR&S contends that, if this is the case, the city, not SR&S caused the deposition of coal fines. However, SR&S contended that the discharge remained in compliance throughout the incident. DOGM would ascertain that the water tanks containing the coal fines are located within the disturbed area. The break in the water line occurred within the permit area and as such, the water tanks were used as a support facility for the discharge of mine water. This would presume SR&S to be responsible for the deposition of coal fines. SR&S did not sample the discharge at the time of the second occurrence of sediment laden deposition into Grassy Trail Creek. Thus, it would be difficult to contend that the discharge would remain in compliance throughout the incident.

RESPECTFULLY SUBMITTED THIS 8th DAY OF December, 1989.


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