

BEFORE THE DIVISION OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE	:	FINDINGS, CONCLUSION
APPEAL OF FACT OF	:	AND ORDER
VIOLATION N93-40-2-2	:	
SUNNYSIDE COAL COMPANY,	:	INFORMAL HEARING
SUNNYSIDE MINE, CARBON	:	
COUNTY, UTAH	:	CAUSE NO. ACT/007/007

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On August 10, 1993, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation for the above referenced Notice of Violation ("NOV").

Presiding: James W. Carter, Director  
Division of Oil, Gas and Mining

For the  
Petitioner: Denise Dragoo, Esq.  
Fabian and Clendenin

Gary Gray  
Sunnyside Coal Company

Division: Hugh Klein  
Reclamation Specialist

Ron Daniels  
Assessment Conference Officer

Joe Helfrich  
Assessment Officer

The Findings, Conclusions and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and information in the files of the Division. During the informal hearing, counsel for Sunnyside Coal presented arguments as to why certain parts of the NOV should be vacated. The parts which the Petitioner seeks a vacation of in this NOV

are part 1 of 2 and part 2 of 2.

FINDINGS OF FACT

1. Notice of this hearing was properly given,
2. The assessment conference to review the proposed penalties for the NOV was held immediately following the informal hearing regarding the fact of violation. The requirement to pay the assessed penalty is abated pending the decision on the informal review of fact of violation.
3. The NOV was issued on April 21 1993. It includes two parts. At this fact of violation conference, part 1 of 2 and part 2 of 2 were reviewed for fact of violation based upon the allegations contained in the NOV.
4. Part 1 of 2 of the NOV was issued for "not conducting mining and reclamation activities in accordance with the approved plan. For not complying with all the terms and conditions of the approved permit and all applicable performance standards and requirements of the State Program." The violation encompasses the area at the northern/northeastern end of the East Slurry Cell as well as the adjacent area, and area between the East and West Slurry Cell in this portion of the permit
5. Part 2 of 2 of the NOV was issued for "failing to conduct activities in accordance with the approved plan. Failure to place dry coal fines from East Slurry Cell on the west side of the West Slurry Cell." The violation encompasses the area known as the East Slurry Cell.
6. The provisions of the regulations which are alleged to

be violated include R. 645-300-142 and R. 645-300-143. These regulations provide that the permittee will conduct operations only as described in the approved permit.

CONCLUSIONS OF LAW

1. Part 1 of 2 of the NOV was written for failure to conduct mining and reclamation activities in accordance with the approved plan. For not complying with all terms and conditions of the approved permit and all applicable performance standards and requirements of the State Program. The regulations were cited as R. 645-300-142 and R. 645-300-143.

2. Part 1 of 2 references expansion of the East Slurry Cell in a manner that did not accord with the terms of the approved permit and plan. Although the operator presented evidence concerning their intent to accomplish no more than maintenance of the East Slurry Cell, the evidence is clear that the activities constituted an expansion of a surface structure in a fashion requiring a plan amendment, which was not submitted or approved.

3. Part 1 of 2 of the NOV should be affirmed.

4. Part 2 of 2 of the NOV was written for failure to conduct activities in accordance with the approved plan, failure to place dry coal fines from the East Slurry Cell on the west side of the West Slurry Cell. The regulations cited consisted of R. 645-300-142.

5. This related violation concerns the fines which were removed from the East Slurry Cell during the operations described

in part 1 of this NOV, and placing them in an unapproved manner. Specifically, the evidence demonstrates that the fines were located in an area not approved on the map, and an area which interfered with existing vegetation, all contrary to the terms and conditions of the approved plan and permit.

6. Part 2 of 2 should be upheld.

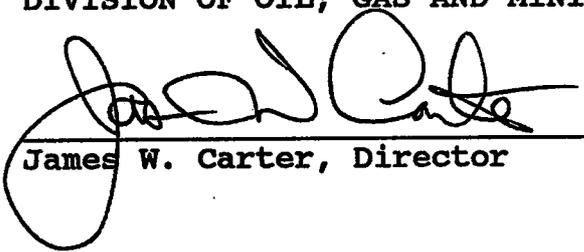
ORDER

NOW, THEREFORE, it is ordered that:

1. NOV N93-40-2-2 part 1 of 2 is upheld.
2. NOV N93-40-2-2 Part 2 of 2 is upheld.
3. The finalized assessment penalty resulting from the assessment conference of August 10, 1993, is due and payable 30 days from the date of this order.
4. Petitioner may appeal to the Board of Oil, Gas and Mining the decision of termination of the Fact of Violation and the final assessments by filing an appeal within 30 days of the date of this Order in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 5<sup>th</sup> day of October, 1993.

STATE OF UTAH  
DIVISION OF OIL, GAS AND MINING

  
James W. Carter, Director

**CERTIFICATE OF MAILING**

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSION AND ORDER in Cause No. ACT/007/007 to be mailed by certified mail, postage prepaid, on the 6th day of October, 1993, to the following:

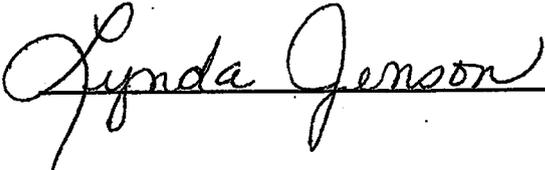
Denise A. Dragoo, Esq.  
Fabian & Clendenin  
215 South State  
P.O. Box 510210  
Salt Lake City, Utah 84151

Bob Burnham, President  
Sunnyside Coal Company  
The Registry  
1113 Spruce Street, Suite 301  
Boulder, Colorado 80302

Joe Fielder, General Manager  
Sunnyside Coal Company  
P.O. Box 99  
Sunnyside, Utah 84539

David B. Corman  
BXG, Inc.  
The Registry  
1113 Spruce Street, Suite 301  
Boulder, Colorado 80302

Gary Gray  
Sunnyside Coal Company  
P.O. Box 99  
Sunnyside, Utah 84539

  
\_\_\_\_\_

**UNNYSIDE COAL COMPANY**

*File  
ACT/007/007*

**11255**

INVOICE NO.	DATE	REFERENCE	GROSS AMOUNT	DISCOUNT	NET AMOUNT
N93-40-2-2	10/27/93		\$710.00		\$710.00
<p><b>RECEIVED</b></p> <p>DEC 02 1993</p> <p>DIVISION OF OIL, GAS &amp; MINING</p>					
<p><i>Please apply \$90.00 credit on account</i></p>					
<b>TOTALS</b>					<b>\$710.00</b>

HECK NO. **11255**  
 ENDOR **DIVISION OF OIL, GAS, & MINING**

**SUNNYSIDE COAL COMPANY**

Northwest Bank Boulder • National Association  
 (303) 442-0351 • 1242 Pearl Street • Boulder, CO 80302

**11255**

82-22  
070

AMOUNT  
**\*\*\$710.00**

CHECK NO. **11255**      DATE **11/30/93**

**\*\*\*Seven Hundred Ten and 00/100 Dollars\*\*\***

PAY  
 TO THE  
 ORDER  
 OF

DIVISION OF OIL, GAS & MINING  
 355 WEST NORTH TEMPLE  
 #3 TRIAD CENTER #350  
 SALT LAKE CITY, UTAH 84180-1203

SUNNYSIDE  
 ACCOUNTS PAYABLE ACCOUNT

⑈011255⑈ ⑆107000220⑆ 182 3500766⑈

**SUNNYSIDE COAL COMPANY**

Act/007,007  
 LU442  
 file

INVOICE NO.	DATE	REFERENCE	GROSS AMOUNT	DISCOUNT	NET AMOUNT
3-32-8-4	08/08/93	081693	1,360.00		1,360.00
3-40-8-2	08/30/93	083093	800.00		800.00
TOTALS			2,160.00		2,160.00

HECK NO. 010442  
 NDOR 000478 DIV. OF OIL, GAS & MINING

**SUNNYSIDE COAL COMPANY**

Norwest Bank Boulder • National Association  
 (303) 442-0361 • 1242 Pearl Street • Boulder, CO 80302

10442  
 82-22  
 1070  
 AMOUNT  
 \*\*\*\*\*2,160.00

HECK NO. 010442 DATE 9/30/93  
 TWO THOUSAND ONE HUNDRED SIXTY 00/100 DOLLARS

PAY TO THE ORDER OF  
 DIV. OF OIL, GAS & MINING  
 355 W. NORTH TEMPLE  
 TRIAD CENTER, SUITE 350  
 SALT LAKE CITY, UT  
 84180-1203

SUNNYSIDE  
 ACCOUNTS PAYABLE ACCOUNT



⑈010442⑈ ⑆107000220⑆ 182 3500766⑈



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

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

August 30, 1993

CERTIFIED RETURN RECEIPT REQUESTED  
P 074 978 359

Mr. Joe Fielder, General Manager  
Sunnyside Coal Company  
P. O. Box 99  
Sunnyside, Utah 84539

Dear Mr. Fielder:

Re: Finalized Assessment for State Violation #N93-40-2-2 - 1/2 and 2/2,  
Sunnyside Coal Company, Sunnyside Mine, ACT/0007/007, Folder #5,  
Carbon County, Utah

The civil penalty for the above-referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalty with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,

Ronald W. Daniels  
Assessment Conference Officer

mbm  
Enclosure  
cc: Bernie Freeman, OSM, AFO  
N934022.FAL



**WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Sunnyside Coal Co. / Sunnyside Mine

NOV #N93-40-2-2

PERMIT # ACT/007/007

VIOLATION 1 of 2

Assessment Date 8/26/93

Assessment Officer Ronald W. Daniels

**Nature of Violation:**

Failure to conduct mining and reclamation activities in accordance with the approved plan. Northeastern end of east slurry cell.

Date of Termination: 6/30/93 - effective 6/3/93

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Previous Violations	<u>19</u>	<u>19</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>20</u>	<u>20</u>
Extent of Damage	<u>    </u>	<u>    </u>
(b) Hindrance to Enforcement	<u>0</u>	<u>0</u>
(3) Negligence	<u>8</u>	<u>8</u>
(4) Good Faith	<u>-0</u>	<u>-2</u>
Total Points	<u>47</u>	<u>45</u>
TOTAL ASSESSED FINE		<u>\$ 800.00</u>

**NARRATIVE:**

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Easy abatement circumstances. Termination occurred in the latter portion of the allotted period. Rapid.

**WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Sunnyside Coal Co. / Sunnyside Mine      NOV #N93-40-2-2

PERMIT # ACT/007/007      VIOLATION 2 of 2

Assessment Date 8/26/93      Assessment Officer Ronald W. Daniels

**Nature of Violation:**

Failure to conduct activities in accordance with the approved plan. Failure to place dry coal fines in the designated area.

Date of Termination: 6/30/93 - effective 6/3/93

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Previous Violations	<u>19</u>	<u>19</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>20</u>	<u>20</u>
Extent of Damage	<u>    </u>	<u>    </u>
(b) Hindrance to Enforcement	<u>    </u>	<u>    </u>
(3) Negligence	<u>8</u>	<u>8</u>
(4) Good Faith	<u>-0</u>	<u>-2</u>
Total Points	<u>47</u>	<u>45</u>
TOTAL ASSESSED FINE		\$ <u>800.00</u>

**NARRATIVE:**

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

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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

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

July 8, 1993

Not file

CERTIFIED RETURN RECEIPT REQUESTED  
No. P 540 713 967

Joe Fielder  
General Mine Manager  
Sunnyside Coal Company  
P. O. Box 99  
Sunnyside, Utah 84539

Dear Mr. Fielder:

Re: Informal Hearing and Assessment Conference for State  
Violations N93-40-3-3, Parts 1 of 3 and 2 of 3 and  
N93-40-2-2, Parts 1 of 2 and 2 of 2, Sunnyside Mine,  
ACT/007/007, Folder #5, Carbon County, Utah

As per your request of June 8, 1993 and a telephone conversation with Gary Gray and Denise Dragoo on July 8, please be advised that the Informal Hearing and Assessment Conference on state violations N93-40-3-3, parts 1 of 3 and 2 of 3 and N93-40-2-2, parts 1 of 2 and 2 of 2, Sunnyside Coal Company's Sunnyside Mine has been established for Tuesday, August 10, 1993, beginning at 8:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

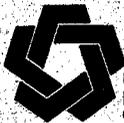
The conference will be held at the Sunnyside mine site.

Very truly yours,

James W. Carter  
Director

vb  
cc: D. Dragoo, Fabian & Clendenin  
J. Helfrich  
PFO  
ASSESSME.





## VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Sunnyside Coal Company  
P.O. Box 99  
Mailing Address Sunnyside, Utah 84539  
State Permit No. ACT/007/007

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated* (1953):

Notice of Violation No. N 93-40-2-2 dated 4/22, 19 93

Cessation Order No. C \_\_\_\_\_ dated \_\_\_\_\_, 19 \_\_\_\_\_

Part 1 of 2 is  vacated  terminated because the operator's completion of abatement requirements by the specified date of 3 June 1993, which was verified by William Malencik on 15 June 1993 during his partial inspection.

Part 2 of 2 is  vacated  terminated because the operator's completion of abatement requirements by the specified date of 3 June 1993, which was verified by William Malencik on 15 June 1993 during his partial inspection.

Part \_\_\_\_\_ of \_\_\_\_\_ is  vacated  terminated because \_\_\_\_\_

Date of service/mailing 6-30-93 Time of service/mailing 3:00  a.m.  p.m.

Joe Fielder  
Permittee/Operator representative  
Signature

General Manager  
Title

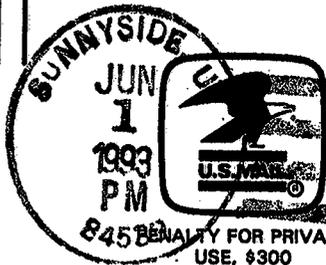
Hugh Klein  
Division of Oil, Gas & Mining  
Signature

Reclamation Specialist 140  
Title

UNITED STATES POSTAL SERVICE  
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

- Print your name, address and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
  - Attach to front of article if space permits, otherwise affix to back of article.
  - Endorse article "Return Receipt Requested" adjacent to number.



Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH  
NATURAL RESOURCES  
OIL, GAS, & MINING  
8 TRIAD CENTER, SUITE 350  
SALT LAKE CITY, UTAH 84180-1203

DOGM JBE ACT/007/007 PA N93-40-2-2

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.  
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1.  Show to whom delivered, date, and addressee's address. (Extra charge)  
2.  Restricted Delivery (Extra charge)

3. Article Addressed to: JOE FIELDER GENERAL MANAGER SUNNYSIDE COAL COMPANY PO BOX 99 SUNNYSIDE UT 84539		4. Article Number P 074 975 419
5. Signature - Address <i>Leslie Garcia</i> X		Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
6. Signature - Agent X		Always obtain signature of addressee or agent and <b>DATE DELIVERED.</b>
7. Date of Delivery JUN 01 1993		8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 \* U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

P 074 975 419

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL  
(See Reverse)

Sent to JOE FIELDER GENERAL MANAGER Street and No. SUNNYSIDE COAL COMPANY PO BOX 99 P.O. State and ZIP Code SUNNYSIDE UT 84539	
Postage	\$ .75
Certified Fee	1.00
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	1.00
Return Receipt showing to whom, Date, and Address of Delivered	
TOTAL Postage and Fees	\$ 2.75
Postmark of Date	JUN 01 1993 SPS SALT LAKE CITY, UT

PS Form 3800, June 1985

DOGM JBE ACT/007/007 PA N93-40-2-2



**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

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

May 27, 1993

CERTIFIED RETURN RECEIPT  
P 074 975 419

Mr. Joe Fielder, General Manager  
Sunnyside Coal Company  
P.O. Box 99  
Sunnyside, Utah 84539

Dear Mr. Fielder:

Re: Proposed Assessment for State Violation No. N93-40-2-2, Sunnyside Coal Company, Sunnyside Mine, 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 R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Hugh Klein on April 21, 1993. Rule R645-401-600 et. sec. 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 the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, 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

jbe  
Enclosure  
cc: Bernie Freeman, OSM

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Sunnyside Coal Co/Sunnyside MineNOV #N93-40-2-2PERMIT # ACT/007/007VIOLATION 1 OF 2ASSESSMENT DATE 05/26/93ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 05/26/93EFFECTIVE ONE YEAR TO DATE 05/26/93

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N92-20-2-1</u>	<u>09/13/92</u>	<u>1</u>
<u>N92-32-10-1</u>	<u>09/27/92</u>	<u>1</u>
<u>N92-32-11-1</u>	<u>12/22/92</u>	<u>1</u>
<u>N92-32-12-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-40-11-1</u>	<u>04/18/93</u>	<u>1</u>
<u>N92-40-12-2</u>	<u>04/18/93</u>	<u>2</u>
<u>N92-40-13-1</u>	<u>04/18/93</u>	<u>1</u>
<u>C92-32-1-1</u>	<u>04/16/93</u>	<u>5</u>
<u>N92-32-13-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-14-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-15-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-16-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-17-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-26-5-1</u>	<u>04/18/93</u>	<u>1</u>

1 point for each past violation, up to one year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

TOTAL HISTORY POINTS 19

**II. SERIOUSNESS (either A or B)**

**NOTE:** For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?  
Conducting Activities Without Appropriate Approvals
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS**

The inspector's statement revealed that unauthorized backfilling and grading activities had effectively enlarged the East Slurry Cell prior to DOGM approval.

3. What is the extent of actual or potential damage? RANGE 0 - 25\*

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS 0**

**PROVIDE AN EXPLANATION OF POINTS**

No damage occurred as a result of the violation.

**B. Hindrance Violations MAX 25 PTS**

1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_  
RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS** \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

**TOTAL SERIOUSNESS POINTS (A or B)** 20

**III. NEGLIGENCE MAX 30 PTS**

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence 0  
... Negligence 1-15  
... Greater Degree of Fault 16-30

STATE DEGREE OF NEGLIGENCE Ordinary

**ASSIGN NEGLIGENCE POINTS** 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care with respect to DOGM regulations.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

... **IF SO - EASY ABATEMENT**

Easy Abatement Situation

... **Immediate Compliance -11 to -20\***

... Immediately following the issuance of the NOV)

... **Rapid Compliance -1 to -10\***

... (Permittee used diligence to abate the violation)

... **Normal Compliance 0**

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... **IF SO - DIFFICULT ABATEMENT**

Difficult Abatement Situation

... **Rapid Compliance -11 to -20\***

... (Permittee used diligence to abate the violation)

... **Normal Compliance -1 to -10\***

... (Operator complied within the abatement period required)

... **Extended Compliance 0**

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N93-40-2-2 1/2

I.	TOTAL HISTORY POINTS	<u>19</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>47</u>
	TOTAL ASSESSED FINE	<u>\$ 880.00</u>

jbe

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Sunnyside Coal Co/Sunnyside MineNOV #N93-40-2-2PERMIT # ACT/007/007VIOLATION 2 OF 2ASSESSMENT DATE 05/26/93ASSESSMENT OFFICER Joseph C. Helfrich**I. HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 05/26/93EFFECTIVE ONE YEAR TO DATE 05/26/93

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N92-20-2-1</u>	<u>09/13/92</u>	<u>1</u>
<u>N92-32-10-1</u>	<u>09/27/92</u>	<u>1</u>
<u>N92-32-11-1</u>	<u>12/22/92</u>	<u>1</u>
<u>N92-32-12-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-40-11-1</u>	<u>04/18/93</u>	<u>1</u>
<u>N92-40-12-2</u>	<u>04/18/93</u>	<u>2</u>
<u>N92-40-13-1</u>	<u>04/18/93</u>	<u>1</u>
<u>C92-32-1-1</u>	<u>04/16/93</u>	<u>5</u>
<u>N92-32-13-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-14-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-15-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-16-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-32-17-1</u>	<u>04/16/93</u>	<u>1</u>
<u>N92-26-5-1</u>	<u>04/18/93</u>	<u>1</u>

1 point for each past violation, up to one year;

5 points for each past violation in a CO, up to one year;

No pending notices shall be counted.

**TOTAL HISTORY POINTS 19**

**II. SERIOUSNESS (either A or B)**

**NOTE:** For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

**A. Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?  
Conducting Activities Without Appropriate Approvals
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS**

The inspector's statement revealed that coal fines removed from the East Slurry Cell had not been placed in the designated disposal area (in the West Slurry Cell) and may have been placed in an undisturbed area.

3. What is the extent of actual or potential damage? RANGE 0 - 25\*

\*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS 0**

**PROVIDE AN EXPLANATION OF POINTS**

No damage occurred as a result of the violation.

**B. Hindrance Violations MAX 25 PTS**

- 1. Is this a potential or actual hindrance to enforcement? \_\_\_\_\_  
RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

PROVIDE AN EXPLANATION OF POINTS

**TOTAL SERIOUSNESS POINTS (A or B) 20**

**III. NEGLIGENCE MAX 30 PTS**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**  
OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**  
OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

- ... No Negligence 0
- ... Negligence 1-15
- ... Greater Degree of Fault 16-30

STATE DEGREE OF NEGLIGENCE Ordinary

**ASSIGN NEGLIGENCE POINTS 8**

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care with respect to DOGM regulations.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

... **IF SO - EASY ABATEMENT**

Easy Abatement Situation

... **Immediate Compliance -11 to -20\***

... Immediately following the issuance of the NOV)

... **Rapid Compliance -1 to -10\***

... (Permittee used diligence to abate the violation)

... **Normal Compliance 0**

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... **IF SO - DIFFICULT ABATEMENT**

Difficult Abatement Situation

... **Rapid Compliance -11 to -20\***

... (Permittee used diligence to abate the violation)

... **Normal Compliance -1 to -10\***

... (Operator complied within the abatement period required)

... **Extended Compliance 0**

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ **ASSIGN GOOD FAITH POINTS**  -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N93-40-2-2 2/2

I.	TOTAL HISTORY POINTS	<u>19</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>47</u>
	TOTAL ASSESSED FINE	<u>\$ 880.00</u>

jbe



UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

3 Trid Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

ppf Jd NOV

## MODIFICATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Sunnyside Coal Company (Sunnyside Mine)

Mailing Address P.O. Box 99, Sunnyside, Utah 84539

State Permit No. ACT/007/007

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated* (1953):

Notice of Violation No. N 93-40-2-2 dated 21 April, 1993.

Cessation Order No. C \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_.

Part 1 of 2 is modified as follows: The abatement date is changed to 3 June 1993.

Reason for modification is based upon the operator's request for an extension, dated 17 May 1993 (see attached).

Part 2 of 2 is modified as follows: The abatement date is changed to 3 June 1993.

Reason for modification is based upon the operator's request for an extension, dated 17 May 1993 (see attached).

Part \_\_\_\_\_ of \_\_\_\_\_ is modified as follows: \_\_\_\_\_

Date of ~~service~~ mailing 5/24/93 Time of ~~service~~ mailing 3:00  a.m.  p.m.

Date of inspection 21 April 1993

Joe Fielder  
Permittee/Operator representative

General Manager  
Title

Signature

Hugh Klein  
Division of Oil, Gas & Mining

Reclamation Specialist #40  
Title

# Sunnyside Coal Company

Operations • Highway 123 • P.O. Box 99 • Sunnyside, Utah 84539

May 17, 1993

ACCEPTED  
#5  
**RECEIVED**

MAY 19 1993

DIVISION OF  
OIL GAS & MINING

Ms. Pamela Grubaugh-Littig  
Division of Oil, Gas & Mining  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203

Dear Pam:

Re: NOV 93-40-2-2, Violation 2 of 2  
Failure to Place Dry Coal Lines from the East Slurry Cell  
on the West Side of the West Slurry Cell

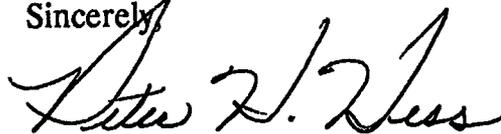
Sunnyside Coal Company requests an extension of two weeks from May 20, 1993, until June 3, 1993, to abate the NOV.

Although Sunnyside Coal has worked diligently to remove these fines to abate the NOV, our 992 loader went down for hydraulic pump repairs on May 10, 1993. This machine is the only one available with sufficient life to load the Dart haul truck. It is still not available. Your approval of this request will be appreciated.

Sunnyside Coal Company has recently submitted a permit amendment request to DOGM to allow the removal of fines to the West Cell by pushing them ahead and compacting with a bulldozer. SCC requests that DOGM review this submittal and return an approval or a denial with reasons stated for denial as quickly as possible.

Your cooperation will be appreciated.

Sincerely,



Peter H. Hess  
Environmental Coordinator

PHH:th  
cc: Hugh Klein, DOGM

Corporate Offices  
The Registry  
1113 Spruce Street  
Boulder, CO 80302  
303-938-1506  
FAX: 303-938-5050

Operations  
Highway 123  
P.O. Box 99  
Sunnyside, UT 84539  
801-888-4421  
FAX: 801-888-2581

# Sunnyside Coal Company

Operations • Highway 123 • P.O. Box 99 • Sunnyside, Utah 84539

May 17, 1993

ACT/007/007  
#5

Ms. Pamela Grubaugh-Littig  
Division of Oil, Gas & Mining  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203

Dear Pam:

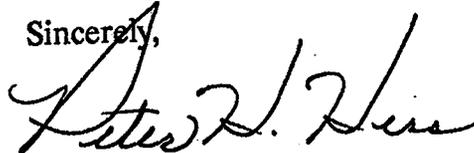
Re: NOV93-40-2-2, Violation 1 of 2, East Slurry Cell Excavation

Sunnyside Coal Company requests an extension of three weeks from May 21, 1993, until June 11, 1993, to abate the NOV due to the pre-necessity of abating 93-40-2-2, Violation 2 of 2.

Both NOV abatements are dependent upon the return of SCC's 992 loader to service, as was stated in SCC's letter of May 17, 1993, to DOGM concerning NOV93-40-2-2, Violation 2 of 2.

Your approval of this request will be appreciated.

Sincerely,



Peter H. Hess  
Environmental Coordinator

PHH:th

cc: Hugh Klein, DOGM

Corporate Offices  
The Registry  
1113 Spruce Street  
Boulder, CO 80302  
303-938-1506  
FAX: 303-938-5050

Operations  
Highway 123  
P.O. Box 99  
Sunnyside, UT 84539  
801-888-4421  
FAX: 801-888-2581



UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

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## MODIFICATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Sunnyside Coal Company, Sunnyside Mine

Mailing Address PO BOX 99, Sunnyside UT 84539

State Permit No. ACT/007/007

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated* (1953):

Notice of Violation No. N 93-40-2-2 dated 21 April, 1993

Cessation Order No. C \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_

Part 2 of 2 is modified as follows: The abatement date is changed to 20 May 1993.

Reason for modification is to allow the operator to schedule the proper equipment to perform the remedial action.

Part \_\_\_\_\_ of \_\_\_\_\_ is modified as follows: \_\_\_\_\_

Reason for modification is \_\_\_\_\_

Part \_\_\_\_\_ of \_\_\_\_\_ is modified as follows: \_\_\_\_\_

Date of ~~service~~/mailing 4 MAY 1993 Time of ~~service~~/mailing 3:00  a.m.  p.m.

Date of inspection 21 April 1993

JOE FIELDER  
Permittee/Operator representative

GEN MGR  
Title

Signature

Hugh Klein  
Division of Oil, Gas & Mining

Reclamation Specialist #40  
Title

Signature

WHITE—DOGM YELLOW—OSM PINK—PERMITTEE/OPERATOR GOLDENROD—NOV FILE  
DOGM/MVC-1

an equal opportunity employer

Rev. 12/86 001059

*Copy from*

**NO. N 93-40-2-2**

**notice of violation**

To the following Permittee or Operator:

Name Sunnyside Coal Company  
 Mine Sunnyside Mine  Surface  Underground  Other  
 County Carbon State Utah Telephone 801-888-4421  
 Mailing Address Highway 143 Box 99, Sunnyside, Utah 84539  
 State Permit No. ACT/007/007  
 Ownership Category  State  Federal  Fee  Mixed  
 Date of Inspection 21 April, 1993  
 Time of Inspection 7:30  a.m.  p.m. to 5:30  a.m.  p.m.  
 Operator Name (other than Permittee) \_\_\_\_\_  
 Mailing Address \_\_\_\_\_

Under authority of the Utah Coal Mining and Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated*, 1953, the undersigned authorized representative of the Division of Oil, Gas & Mining has conducted an inspection of above mine on above date and has found violation(s) of the act, regulations or required permit condition(s) listed in attachment(s). This notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that **cessation of mining is**  **is not**  expressly or in practical effect required by this notice. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This notice shall remain in effect until it expires as provided on reverse side of this form, or is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas & Mining. Time for abatement may be extended by authorized representative for good cause, if a request is made within a reasonable time before the end of abatement period.

Date of service/mailling 21 April 1993 Time of service/mailling 5:30  a.m.  p.m.  
PETER HESS ENVIRONMENTAL COORDINATOR  
 Permittee/Operator representative Title  
Peter Hess  
 Signature  
HUGH KLEIN Reclamation Specialist  
 Division of Oil, Gas & Mining representative Title  
Hugh Klein #40  
 Signature Identification Number

**SEE REVERSE SIDE**

WHITE-DOG M YELLOW-OPERATOR PINK-OSM GOLDENROD-NOV FILE



NOTICE OF VIOLATION NO. N 93-40-2-2

Violation No. 1 of 2

Nature of violation

#3

For not conducting mining and reclamation activities in accordance with the approved plan. For not complying with all the terms and conditions of the approved permit and all applicable performance standards and requirements of the State Program.

~~Provisions of act, regulations or permit violated~~

R 645-300-142

R 645-300-143

SAF ?!!  
foo ?!!

Portion of operation to which notice applies

The area at the northern/northeastern end of the East Slurry Cell as well as the adjacent area and area between the East and West Slurry Cell in this portion of the permit.

Remedial action required (Including any interim steps)

Cease all excavation and filling/backfilling activities in the area. Return area to pre-violation conditions and topography so that slurry flows to the designated slurry ponds.

Abatement time (Including interim steps)

All excavation and backfilling must cease immediately. Return of area to pre-violation conditions and topography as well as restoring drainage must be completed no later than 5 PM, 21 May 1993.



NOTICE OF VIOLATION NO. N 93-40-2-2

Violation No. 2 of 2

Nature of violation

F3

~~For failing to conduct activities in accordance with the approved plan. Failure to place dry coal fines from East Sherry Cell on the west side of the West Sherry Cell.~~  
For failing to conduct activities in accordance with the approved plan. Failure to place dry coal fines from East Sherry Cell on the west side of the West Sherry Cell.

Provisions of act, regulations or permit violated

RC45-300-142

Portion of operation to which notice applies

East Sherry Cell

Remedial action required (Including any interim steps)

Place <sup>dry</sup> coal fines from East Sherry Cell in the designated area of the West Sherry Cell.

Abatement time (Including interim steps)

Remedial action must be completed no later than 5 PM, 5 May 1993.

**EVENT VIOLATIONS INSPECTORS STATEMENT**

Company/Mine Sunnyside Coal Company/Sunnyside Mine  
Permit # ACT/007/007

NOV/CO # 93-40-2-2  
Violation # 1 of 2

**A. SERIOUSNESS**

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment, diverse and effective vegetative cover.
- i. No event occurred as a result of the violation.
- j. Other.

2. Has the event occurred? Yes X No    

X Yes: Describe it.

Unauthorized backfilling and grading activities had effectively enlarged the East Slurry Cell without prior approval.

    No: What would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

3. Did any damage occur as a result of the violation?

✓ No

    Yes: Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

**B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss.)**

( ) Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.

**Explanation**

The violation was a result of more than a lack reasonable care. The activities which made it necessary to serve this violation were willful and wanton disregard for DOGM regulations. Sunnyside Coal is well aware of the need to gain Division approval prior to backfilling and grading activities that are not part of the approved permit.

( ) If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Was the operator in violation of a specific permit condition?

**Explanation**

This NOV was issued for violation of two permit conditions. Those permit conditions are R645-300-142 and R645-300-143.

( ) Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation?

( ) Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

**C. GOOD FAITH**

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.
  
2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.
  
3. Was the submission of plans prior to physical activity required by this NOV/CO? Yes\_\_\_ No\_\_\_ If yes, explain.

Hugh Klein Reclamation Specialist #40  
Authorized Representative

*Hugh Klein*  
Signature

17 May 1993  
Date

EVENT VIOLATIONS INSPECTORS STATEMENT

Company/Mine Sunnyside Coal Company/Sunnyside Mine  
Permit # ACT/007/007

NOV/CO # 93-40-2-2  
Violation # 2 of 2

**A. SERIOUSNESS**

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment, diverse and effective vegetative cover.
- i. No event occurred as a result of the violation.
- j. Other.

2. Has the event occurred? Yes X No    

X Yes: Describe it.

Coal fines removed from the East Slurry Cell had not been placed in the designated disposal area (in the West Slurry Cell) and (may have?) had been placed in an undisturbed area.

    No: What would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

3. Did any damage occur as a result of the violation?

     No

    Yes: Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

**B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss.)**

( ) Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.

Explanation

The violation was the result of a lack reasonable care on the part of the operator. The activity which made it necessary to serve this violation is not part of the approved permit. Had Sunnyside Coal been aware of what is in its own permit, this activity would not have taken place.

( ) If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Was the operator in violation of a specific permit condition?

Explanation

This NOV was issued for violation of one permit condition. This permit condition is R645-300-142.

( ) Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation?

( ) Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

**C. GOOD FAITH**

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.
  
2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.
  
3. Was the submission of plans prior to physical activity required by this NOV/CO? Yes\_\_\_ No\_\_\_ If yes, explain.

Hugh Klein Reclamation Specialist #40  
Authorized Representative

Hugh Klein  
Signature

17 May 1993  
Date



**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

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

3 May 1993

**TO:** Pamela Grubaugh-Littig, Permit Supervisor

**FROM:** Hugh Klein, Geologist/Hydrologist

**RE:** NOV Abatement Dates, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Folder #3 & #5, Carbon County, Utah

**SUMMARY**

Three of the violations written week before last during the oversight inspection need to be abated this week when I am in the field. As such, I contacted the operator in order to discern the status of the required work. When I spoke with Mr. Peter Hess of Sunnyside Coal, he informed me that the remedial action for NOV 93-40-3-3 part 1 of 3 had been performed. Mr. Hess continued by saying that he planned to request an extension for NOV 93-40-2-2 part 2 of 2 and NOV 93-40-3-3 part 2 of 3. At that time, Mr. Hess was instructed to send the request in via fax today and to include the reason as to why the remedial action could not be completed in the specified time.

c: J. Heffrich

