

SEP-26-96

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STATE OF UTAH OIL GAS

FAX NO. 538 5340

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

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IN THE MATTER OF THE APPEAL OF : FINDINGS, CONCLUSIONS,
FACTS OF VIOLATION N96-46-1-1, AND ORDER
N96-46-2-1, UNITED STATES FUEL
COMPANY, HIAWATHA MINE
COMPLEX : CAUSE NO. ACT/007/011

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On August 8, 1996, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to United States Fuel Company (U.S. Fuel) for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

- Presiding: James W. Carter
Director
- Petitioner: Michael P. Watson
Gary Barker
- Division: Joe Helfrich
Peter Hess

Based upon the information contained in the Division's files, and upon information provided by the Petitioner at the informal conference, the Division enters the following Findings, Conclusions and Order:

FINDINGS OF FACT

1. Notice of this informal conference was properly given.

Post-it* Fax Note	7671	Date	# of pages ▶ 4
To	MIKE WATSON	From	Joe Helfrich
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Phone #		Phone #	801-538-5290
Fax #	801-477-3394	Fax #	

2. Violation N96-46-1-1 was written for "Failure to comply with the terms of the permit. Failure to meet the requirements of the approved reclamation schedule as it is shown in the mining and reclamation plan.

3. The mining and reclamation plan provides, in pertinent part; "When all mining operations have ceased, and the facilities in the preparation plant are no longer required, then the facilities will be dismantled." The plan then goes on to describe the backfilling, grading and revegetation requirements for the mined area. Tables II-23, II-24, and II-25 establish reclamation timetables for the Processing Plant and Loadout Facility, the Middle Fork Mining Operations, and South Fork Mining Operations, respectively.

4. U.S. Fuel is currently extracting and selling coal fines from its slurry ponds, and argues that it has therefore not ceased "all mining operations". The Division points out that U.S. Fuel has ceased its underground operations, has demolished much of its surface facilities and has commenced the reclamation required by its permit, but that U.S. Fuel has failed to stay within the schedules set forth in Tables II-23, II-24 and II-25. The Division argues that U.S. Fuel is two years behind the schedule set forth in its permit.

5. Violation N96-46-2-1 was written for "Failure to meet the terms and conditions of the approved permit, i.e. removal of machinery within 1st year of cessation of operations", and for "Failure to properly place and store non-coal mine waste (abandoned mining machinery) in a controlled manner in a designated portion of the permit area."

6. Although N96-46-2-1 had not been formally appealed at the time of the informal conference in this matter, information relating to the violation was introduced and argument was made at the time of the informal conference. U.S. Fuel subsequently

submitted information demonstrating that some or all of the mining equipment at issue has been sold to other parties and is therefore not "non-coal" waste. U.S. Fuel argues that it therefore lacks control over the machinery in question, and can neither dispose of it nor remove it from the mine permit area.

CONCLUSIONS OF LAW

1. U.S. Fuel's cessation of underground mining activities and demolition of much of its surface facilities constituted a cessation of mining activities which triggered its obligation to commence reclamation in accordance with its reclamation plan. Continued removal and sale of coal fines from its sediment and slurry ponds is a part of U.S. Fuel's reclamation of the site, and does not forestall its obligation to timely reclaim the site.

2. The sale by U.S. Fuel of the machinery which gave rise to N96-46-2-1 puts dismantling or disposal of that machinery out of U.S. Fuel's control. U.S. Fuel remains responsible, however, for ensuring that all activities, mining or other, are conducted in the permit area in accordance with the approved mining and reclamation plan

ORDER

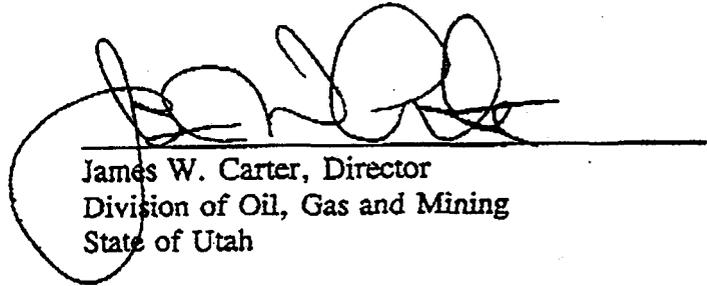
NOW THEREFORE, it is ordered that:

1. NOV N96-46-1-1 is upheld.
2. The abatement of NOV N96-46-2-1 be modified to require that, within 30 days of this order, U.S. Fuel identify, in the field or on a permit area map, that equipment which has been sold and that which remains the property of U.S. Fuel, and that within 60 days of this order, U.S. Fuel remove and properly dispose of its non-coal waste and abandoned machinery in accordance with its mining and reclamation plan. Further, within 60 days of

the date of this order, U.S. Fuel must relocate the machinery which has been sold to a location approved in the mining and reclamation plan for equipment storage.

3. The Petitioner may appeal these determinations of fact of violation to the Board of Oil, Gas and Mining by filing said 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 24th day of September, 1996.



James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah