

file

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

---ooOoo---

IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION FOR	:	AND ORDER
NOTICE OF VIOLATION NOS.	:	
N92-25-3-1, N92-25-4-1,	:	
N92-25-5-1, AND N92-25-6-1,	:	INFORMAL HEARING
INTERMOUNTAIN POWER AGENCY,	:	CAUSE NO. ACT/007/013
HORSE CANYON MINE,	:	
ACT/007/013, CARBON COUNTY,	:	
UTAH	:	

---ooOoo---

On February 19, 1993, the Division of Oil, Gas and Mining ("Division") held an informal hearing at the request of Intermountain Power Agency, (IPA) concerning the fact of violation for the above-referenced Notices of Violation ("NOVs"). The following individuals attended:

Presiding:	Lowell P. Braxton, Acting Director Division of Oil, Gas and Mining
Petitioner:	Bill Engles, Engineer Intermountain Power Agency (IPA)
	Denise A. Dragoo, Esq. Fabian & Clendenin Attorney for IPA
	Tom Suchoski Earth Fax Engineering
	Chris Hansen Earth Fax Engineering
Division:	Tom Munson Senior Reclamation Specialist
Board:	Joe Helfrich Assessment Officer Penalty Assessment
	Ron Daniels Assessment Conference Officer

The Findings, Conclusions, and Order in this matter are based on information provided in connection with this informal hearing, and information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. The assessment conference to review the proposed penalties for NOVs N92-25-3-1, N92-25-4-1, N92-25-5-1 and N92-25-6-1 was held immediately following this informal hearing regarding fact of violations. Requirement to pay the assessed penalties is stayed pending the decision in the informal review of the violations.

3. NOV N92-25-3-1 was issued as a result of a complete inspection conducted by Tom Munson October 27 and 28, 1992.

a. This violation was issued for "failure to maintain sediment control devices (i.e. silt fences) to prevent to the extent possible, additional contributions of sediment to stream flow or runoff outside the permit area."

b. The portion of the operation to which the notice applies is: 1) Area 6, Drawing II-3B, Silt Fence Outlet; 2) Silt Fence in conjunction with Berm 34, Drawing II-3C; and 3) Silt Fence on either side of channel 7A, Drawing II-3C.

c. Photographic documentation depicting a dysfunctional condition of the subject silt fences at the time of the inspection was presented. (Division Exhibit No. 1)

4. NOV N-92-25-4-1 resulted from a complete inspection conducted by Tom Munson October 27 and 28, 1992.

a. This violation was issued for "failure to maintain and construct diversions to meet approved designs and be stable."

b. The portion of the operation to which the notice applies: 1) Diversion 3A, Drawing II-3B; 2) Diversion 14, Drawing II-3C; and 3) Diversion 19, Drawing II-3D.

c. Information documenting the degraded, unstable condition of the diversions was presented. (Division Exhibit No. 2)

d. The Permit Application Package ("PAP") states that "evidence of berm or ditch overtopping, bypass, or erosion will be noted and any needed repairs or upgrading will take place at the time of inspection or shortly after, depending on the scope of work required." The erosion found had existed for an extended period of time as evidenced by its depth and severity.

e. The operator was unable to repair it at the time of the inspection.

5. NOV N92-25-5-1 resulted from a complete inspection conducted by Tom Munson October 27 and 28, 1992.

a. The violation was issued for "failure to monitor in accordance with the approved plan."

b. The portion of the operation to which the notice applies is Section 2.12 of the PAP which identifies that two sediment samplers would be located below silt fences and the monitoring of the well located near the surface facilities on a quarterly basis.

c. The inspection noted that neither of these commitments were carried out, and the operator had failed to implement his approved monitoring plan.

6. NOV N92-25-6-1 resulted from a complete inspection conducted by Tom Munson October 27 and 28, 1992.

a. The violation was issued for "failure to minimize erosion to the extent possible."

b. The portions of the operation to which this notice applies are:

- i) Area 6, Drawing II-3B
- ii) Area 7A, Drawing II-3C
- iii) Area South of Berm 17, Drawing II-3D
- iv) Areas associated with Area 18, Drawing II-3D
- v) Borrow Pit Area, Drawing II-3B
- vi) South Fan Portal, Drawing II-3D

c. Photographic documentation of minor, geologic rill erosion was presented. (Division Exhibit No. 3)

CONCLUSIONS OF LAW

1. NOV N92-25-3-1 was appropriately cited and substantiated a failure to maintain specified silt fences, resulting in a violation of Utah Admin. R. 645-301-742.110 and R. 645-301-742.111.

2. NOV N92-25-4-1 was appropriately cited and substantiated a failure to maintain and constrict diversions to meet approved designs and to be stable, resulting in a violation of Utah Admin. R. 645-301-742.312 and R. 645-301-742.312.1.

3. NOV N92-25-5-1 was appropriately cited and resulted in a failure to monitor in accordance with the approved plan,

resulting in a violation of Utah Admin. R. 645-301-731.210 and R. 645-301-731.220.

4. NOV N92-25-6-1 identified rill erosion on lands reclaimed by IPA. This erosion was minor, and no demonstration of accelerated erosion was established. IPA's Reclamation Plan Division, was designed to minimize erosion to the extent possible. A demonstration that IPA was in violation of Utah Admin. R. 645-301-742.113 was not established by the Division.

ORDER

NOW THEREFORE, it is ordered that:

1. NOVs N92-25-3-1, N92-25-4-1, and N92-25-5-1 are upheld.
2. NOV N92-25-6-1 is vacated.
3. The finalized assessment, resulting from the Assessment Conference of NOVs N92-25-3-1, N92-25-4-1, and N92-25-5-1, is due and payable to the Division 30 days from the date of this Order.
4. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and/or finalized assessment 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 19th day of March, 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

Lowell P. Braxton
Lowell P. Braxton, Acting Director



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Mine file

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)

June 2, 1993

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 713 958

David W. Anderson, P.E.
Intermountain Power Agency
City of Los Angeles, Room 1164
111 North Hope Street
Los Angeles, California 90012

Dear Mr. Anderson:

Re: Informal Hearing and Assessment Conference for State
Violations N93-25-1-1 and N93-35-2-1, Intermountain Power
Agency, Horse Canyon Mine, ACT/007/013, Folder #5, Carbon
County, Utah

As per a telephone conversation with Bill Engels on June 2,
1993, please be advised that the Informal Hearing and Assessment
Conference on state violations N93-25-1-1 and N93-35-2-1,
Intermountain Power Agency's Horse Canyon Mine has been
established for Thursday, June 10, 1993, beginning at 1:30 p.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 in the office of the Division of
Oil, Gas and Mining.

Very truly yours,

James W. Carter
Director

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



P 540 713 958

RECEIPT FOR CERTIFIED MAIL

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U.S.G.P.O. 1989-234-555

PS Form 3800, June 1985

DAVID W ANDERSON PE IPA CITY OF LA	
Street and NO HOPE ST RM 1164	
P.O. State and ZIP Code LOS ANGELES CA 90012	
Postage	\$ 29
Certified Fee	1.00
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 30.00
Postmark or Date	JUN 3 1993



DOGM VB ACT/007/013 N93-25-1-1 N93-35-2-1

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER in Cause No. ACT/007/013 to be mailed by certified mail, postage prepaid, on the 20th day of July, 1993, to the following:

✓ Bill Engels
Intermountain Power Agency
Department of Water and Power
City of Los Angeles; Room 1164
111 North Hope Street
Los Angeles, California 90012

✓ David W. Anderson, P.E.
Intermountain Power Agency
Department of Water and Power
City of Los Angeles; Room 1164
111 North Hope Street
Los Angeles, California 90012

✓ Chris Hansen
Earthfax Engineering Inc.
7324 South 1300 East
Midvale, Utah 84047

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

✓ Bernie Freeman
Office of Surface Mining
Albuquerque Field Office
505 Marquette NW Suite 1200
Albuquerque, New Mexico 87102



P 074 977 009

REGISTERED MAIL
POSTAGE GUARANTEED
IF CHANGE OF ADDRESS PROVIDED
ON RETURN TO SENDER
IF RETURN TO ADDRESSEE
(See Reverse)

BILL ENGELS	
INTERMOUNTAIN POWER AGENCY	
CITY OF LOS ANGELES ROOM 1164	
111 NORTH HOPE STREET	
LOS ANGELES CA 90012	
Postage	\$ 29
Certified Fee	1.00
Special Delivery Fee	
Post-Office Delivery Fee	
Return Receipt (if any)	
Return Receipt (if any)	
TOTAL POSTAGE	1.00
Postmark or	229



PENALTY FOR PRIVATE USE, \$300

PS Form 3800 (June 1983)

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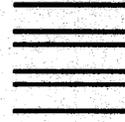
STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1293

P 074 977 010

RECEIPT FOR CERTIFIED MAIL
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 (See Reverse)

DAVID W. ANDERSON PE INTERMOUNTAIN POWER AGENCY City of LOS ANGELES ROOM 164 11 NORTH HOPE STREET LOS ANGELES CA 90012	
Postage	\$ 29
Certified Fee	100
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	100
Return Receipt showing Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 129
Postmark or Date	

PS Form 3800 June 1985



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

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P 074 977 011
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Sent to	CHRIS HANSEN		
Street	EARTHFAK ENGINEERING INC		
P.O. Street and Suite	1327 SOUTH	1300 EAST	
	MIDVALE UT	84047	
Postage	\$	29	
Certified Fee		100	
Special Delivery Fee			
Restricted Delivery Fee			
Return Receipt showing to whom and Date Delivered		100	
Return Receipt Date, and Addressee's Signature			
TOTAL Postage and Fees		229	
Postmark of Origin	SALT LAKE CITY UT 05 AUG 1993		

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 SALT LAKE CITY, UTAH 84180-1203

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DOGM JBE ACT/007/013 IH

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SENDER'S NAME	DRAGOO ESQ
STREET AND NO.	FABIAN AND GLENDENIN
CITY AND STATE	215 SOUTH STATE STREET
ZIP CODE	84151
POSTAGE	\$ 29
CERTIFIED FEE	100
SPECIAL DELIVERY FEE	
RESTRICTED DELIVERY FEE	
RETURN RECEIPT SHOWING TO WHOM AND DATE DELIVERED	OFFICE 100
RETURN RECEIPT SHOWING DATE AND ADDRESS OF DELIVERY	
TOTAL POSTAGE AND FEES	\$ 129
POSTMARK OR DATE	SALT LAKE CITY

PS Form 3800, June 1985

UNITED STATES POSTAL SERVICE
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NATURAL RESOURCES
OIL, GAS, & MINING
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SALT LAKE CITY, UTAH 84160-1203



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

---oo0oo---

IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION	:	AND ORDER
#N93-35-02-01	:	
HORSE CANYON MINE,	:	INFORMAL HEARING
CARBON COUNTY, UTAH	:	CAUSE NO. ACT/007/013

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On Thursday, June 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"). The following individuals attended.

Presiding:	James W. Carter Director Division of Oil, Gas and Mining
For the Petitioner:	Bill Engels Intermountain Power Agency David W. Anderson Intermountain Power Agency Chris Hansen Earthfax Engineering Denise Dragoo Fabian & Clendenin
For the Division:	Tom Munson Reclamation Specialist Susan White Reclamation Specialist Ron Daniels Assessment Conference 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.

FINDINGS OF FACT

1. Notice of this informal hearing was properly given.
2. NOV #N93-35-02-01 consisted of one part. This part was written for the failure of Intermountain Power Agency to seed the regraded diversion repairs as stated in the approved permit.
3. The Division's 'Statement of Facts' submitted for the record at the hearing was reviewed by Intermountain Power Agency, and no new information was offered to counter the fact of not seeding according to the approved plan.

CONCLUSIONS OF LAW

1. The operators failure to seed the regraded diversions in accordance with the approved plan supports Violation #N93-35-02-01 which is upheld and not exempt from the requirements of R645-300-142.

ORDER

NOW THEREFORE, it is ordered that:

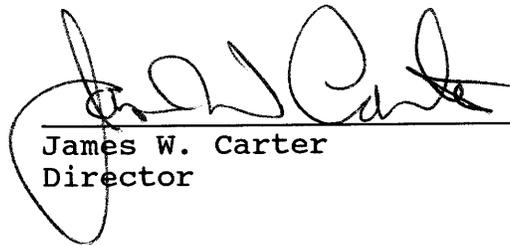
1. The fact of violation NOV #N93-35-02-01, Part 1 of 1 is upheld.

2. The finalized assessment for NOV #N93-35-02-01, Part 1 of 1 is due and payable within 30 days of the date of this Order.

3. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and finalized assessment by filing said appeal within 30 days of this Informal Order, in accordance with statutory and regulatory requirements, including escrow of the assessed civil penalty.

SO DETERMINED AND ORDERED this 9th day of July 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



James W. Carter
Director

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

---oo0oo---

IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION	:	AND ORDER
#N93-25-1-1,	:	
HORSE CANYON MINE,	:	INFORMAL HEARING
CARBON COUNTY, UTAH	:	CAUSE NO. ACT/007/013

---oo0oo---

On Thursday, June 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"). The following individuals attended.

Presiding:	James W. Carter Director Division of Oil, Gas and Mining
For the Petitioner:	Bill Engels Intermountain Power Agency David W. Anderson Intermountain Power Agency Chris Hansen Earthfax Engineering Denise Dragoo Fabian & Clendenin
For the Division:	Tom Munson Reclamation Specialist Susan White Reclamation Specialist Ron Daniels Assessment Conference Officer

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this informal hearing was properly given.

2. NOV #N93-25-1-1 consisted of one part. This part was written for the failure of Intermountain Power Agency to obtain prior approval for construction of required sediment controls and diversions.

3. The Division's 'Statement of Facts' submitted for the record at the hearing was reviewed by Intermountain Power Agency, and no new information was offered to counter the fact of construction of the facilities prior to approval.

CONCLUSIONS OF LAW

1. The operator's failure to obtain formal approval for the construction of the sediment controls and diversions at the South Fan Portal supports Violaton #N93-25-1-1 which is upheld and not exempt from the requirements of R645-300-142.

ORDER

NOW THEREFORE, it is ordered that:

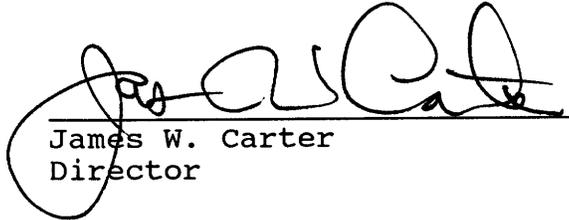
1. The fact of violation NOV #N93-25-2-1, Part 1 of 1 is upheld.

2. The finalized assessment for NOV #N93-25-2-1, Part 1 of 1 is due and payable within 30 days of the date of this Order.

3. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and finalized assessment by filing said appeal within 30 days of this informal Order, in accordance with statutory and regulatory requirements, including escrowing the assessed civil penalty.

SO DETERMINED AND ORDERED this 12th day of July, 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



James W. Carter
Director

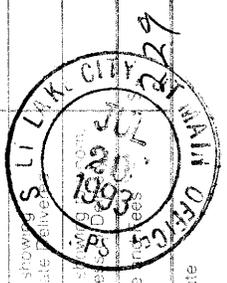
DOG# 107ACT4915/0077 & ACT/007 /013

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OFFICE OF SURFACE MINING	
Street ALBUQUERQUE FIELD OFFICE	
505 MARQUETTE NW STE 1200	
P. O., State and ZIP Code ALBUQUERQUE NM 87102	
Postage	\$
Certified Fee	
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Return Receipt showing When and Date Delivered	
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PS Form 3800 June 1985

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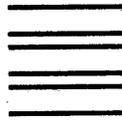
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 NATURAL RESOURCES
 OIL, GAS, & MINING
 3 TRIAD CENTER, SUITE 350
 SALT LAKE CITY, UTAH 84180-1203



PENALTY FOR PRIVATE USE, \$300



CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing findings in Cause No. ACT/007/013 to be mailed by Certified mail, postage prepaid, on the 4th day of August 1993, to the following:

Bill Engels
Intermountain Power Agency
City of Los Angeles; Room 1164
111 North Hope Street
Los Angeles, California 90012

David W. Anderson, P.E.
Intermountain Power Agency
City of Los Angeles; Room 1164
111 North Hope Street
Los Angeles, California 90012

Chris Hansen
Earthfax Engineering Inc.
7324 South 1300 East
Midvale, Utah 84047

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



DOG M L J PAC 7/07/97 478

RECEIPT FOR CERTIFIED MAIL

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Bills to ENGELS	
INTERMOUNTAIN POWER AGENCY	
DEPT. OF WATER & POWER	
CITY OF LOS ANGELES	
1117 N HOPE ST	
LOS ANGELES CA 90112	
Postage	\$
Certified Fee	
Special Delivery Fee	
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Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom and Date Delivered	
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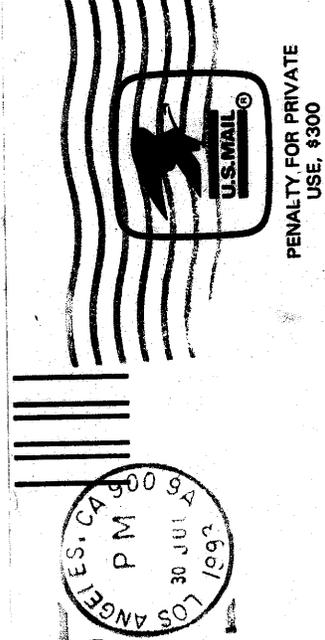
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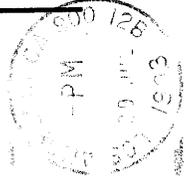
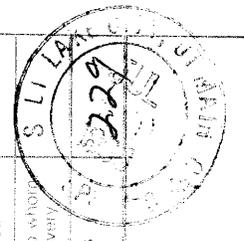
STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
 3 TRIAD CENTER, SUITE 350
 SALT LAKE CITY, UTAH 84180-1203



LIVE CENTRAL DUGH LJ A41/00//013
P 074 975 480

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NOT FOR INTERNATIONAL MAIL
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DAVID W ANDERSON P E INTERMOUNTAIN POWER AGENCY DEPT OF WATER & POWER CITY OF LA 1915 N HOPE ST LOS ANGELES CA 90112 Postage	
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom Date, and Address of Delivery	
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Postmark or Date	



PENALTY FOR PRIVATE USE, \$300

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

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



1 1111

