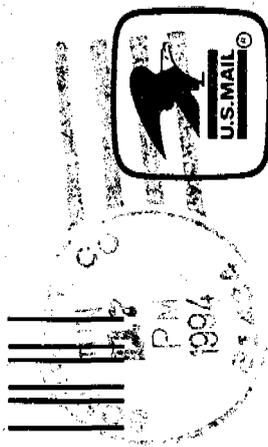


**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE.
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (see extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1988-2-7-132



PENALTY FOR PRIVATE USE, \$300

**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.

RETURN TO

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

STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
OFFICE CENTER, SUITE 350
SALT LAKE CITY, UTAH 84160-1204

**P 074 976 125
RECEIPT FOR CERTIFIED MAIL**
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to	kathleen G. Welt
Street	Mountain Coal Co.
P.O. City and ZIP Code	PO BOX 591 SOMERSET CO 81434
Postage	\$ 52
Certified Fee	1
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	1
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage	\$ 52
Postmark or	SALT LAKE CITY, UT JUN 11 1988

PS Form 3800, June 1985

SM FORM ACT 1988-2-7-132

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

3. Article Addressed to:
KATHLEEN WELT
MOUNTAIN COAL CO
PO BOX 591
SOMERSET CO

4. Article Number
P 074 976 125

5. Signature - Agent
X

6. Signature - Address
Kathleen Welt

7. Date of Delivery

8. Article Addressed to:
Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise
Always obtain signature of addressee or agent and DATE DELIVERED.
8. Addressee's Address (ONLY if requested and fee paid)

9. 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 boxes for additional service(s) requested.
1. Show to whom delivered, date, and addressee's address. (Extra charge)
2. Restricted Delivery (Extra charge)

SM FORM ACT 1988-2-7-132



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)

*Please file
NOV. # 94-26-1-1*

April 12, 1994

Kathleen G. Welt
Environmental Supervisor
Mountain Coal Company
P.O. Box 591
Somerset, CO 81434

Re: Initial Review Response -- Accepted, Abatement Plan for Violation #N94-26-1-1, Three Small Area Exemptions, Gordon Creek #3 and #6, ACT/007/017-94A, Folder #3, Carbon County, Utah

Dear Ms. Welt:

The Division received the proposed amendment, Abatement Plan for Violation #N94-26-1-1, on April 11, 1994 and has determined the application complete. This amendment has been assigned the permit change number, ACT/007/017-94A.

The anticipated completion of this review is by April 28, 1994, at which time you will be notified of the amendment status.

If you have any questions, please call me.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

cc: Joe Helfrich





VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Mountain Coal Company

Mailing Address P.O. Box 591, Somerset, Colorado, 81434

State Permit No. Act 0071017

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

Notice of Violation No. N 94-26-1-1 dated 3/24/94, 19__.

Cessation Order No. C N/A dated _____, 19__.

Part 1 of 1 is vacated terminated because permittee on 4/8/94 submitted and Division subsequently approved small area exemption for area/areas that do not drain into a sediment pond nor do such areas have alternative sediment control

Part _____ of _____ is vacated terminated because _____
See record, interim abatement date was 4/29/94 and final abatement date was 5/31/94.

Part _____ of _____ is vacated terminated because _____

Date of service/ mailing June 6, 1994

Time of service/ mailing 4 p.m. a.m. p.m.

Mailed
Permittee/Operator representative _____

Title _____

N/A
Signature _____

Wm. J Malencik
Division of Oil, Gas & Mining

Rec. Specialist
Title _____

Wm. J Malencik
Signature _____



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)

June 14, 1994

CERTIFIED RETURN RECEIPT
P 074 976 125

Mountain Coal Company
Kathleen G. Welt
Environmental Supervisor
P.O. Box 591
Somerset, CO 81434

Re: Proposed Assessment for State Violation No. N94-26-1-1, Mountain Coal Company, Gordon Creek #3 & #6, ACT/007/017, Folder #5, Carbon County, Utah

Dear Ms. Welt::

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 on March 8, 1994 by Inspector Jesse Kelley. 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

/sm

Enclosure

cc: Bernie Freeman, OSM

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

COMPANY/MINE Mountain Coal Company/Gordon Creek #3 and #6

NOV #N94-26-1-1

PERMIT # ACT/007/017

VIOLATION 1 OF 1

ASSESSMENT DATE 06/14/94

ASSESSMENT 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 06/14/94

EFFECTIVE ONE YEAR TO DATE 06/14/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

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 0

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. Small disturbed area not reporting to a sediment pond or approved as a BTCA area with treatment or approved as a small area exemption without treatment..

- 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

These referenced events did occur inasmuch as the approved MRP was silent with regard to either the presence or absence of sediment control as a BTCA or small area exemption site.

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 diligence with respect to providing information to support a BTCA or SAE request and approval by the state regulatory authority.

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** -10

PROVIDE AN EXPLANATION OF POINTS

The permittee exercised diligence in providing requisite information for approval and updating the approved mining and reclamation plan.

V. ASSESSMENT SUMMARY FOR N94-26-1-1

I.	TOTAL HISTORY POINTS	<u> </u>
II.	TOTAL SERIOUSNESS POINTS	<u> 20 </u>
III.	TOTAL NEGLIGENCE POINTS	<u> 8 </u>
IV.	TOTAL GOOD FAITH POINTS	<u> -10 </u>
	 TOTAL ASSESSED POINTS	 <u> 18 </u>
	 TOTAL ASSESSED FINE	 <u> \$ 0 </u> *

/sm

*Proposed assessment less than 50 points, civil penalty is discretionary.



gph

NO. N 94-26-1-1

notice of violation

To the following Permittee or Operator:

Name Montain Coal Company

Mine Garden Creek 3#1 Surface Underground Other

County Carbon State Ut. Telephone 637-2422

Mailing Address P.O. Box 591, Somerset, Colorado 81434

State Permit No. Act 004/017

Ownership Category State Federal Fee Mixed

Date of inspection 3/23-24/94

Time of inspection 8:30 a.m. p.m. to 2:30 10:00 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.

P 074 978 401

CERTIFIED RETURN RECEIPT

Date of service/mailling 3/24/94

Time of service/mailling 9:30 a.m. p.m.

DAN GUY
Permittee/Operator representative

Engineer/Consultant
Title

[Signature]
Signature

Wm. J. Malencik
Division of Oil, Gas & Mining representative

Rec. Spec
Title

[Signature]
Signature 3/24/94

26
Identification Number

SEE REVERSE SIDE

WHITE-DOGDM YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE



NOTICE OF VIOLATION NO. N 94-26-1-1

Violation No. 1 of 1

Nature of violation

Failure to construct siltation structures as receive approval for other treatment facilities including exemption according to the requirements provided under R645-301-732 and R645-301-742. Disturbed area described below does not report to a sediment pond nor is the potential runoff treated by other treatment facilities.

Provisions of act, regulations or permit violated

R645-301-732 - Performance Standard.

Portion of operation to which notice applies

Small vegetated disturbed area lying north of the sediment pond, east of the main undisturbed drainage and west of the permittees protection fence

Remedial action required (including any interim steps)

OPTION I (R645-301-742.231 & 232)

A. Submit plans & designs for sediment control measures

B. Implement plans after approval

OPTION II (R645-301-742.240)

Submit data & demonstrate sediment control measures are not needed and obtain approval of the affected area as an

Abatement time (including interim steps) exemptional area in accordance with R645-301-742.240.

OPTION I "A" April 29, 1994; B May 31, 1994 or

OPTION II May 31, 1994.

COMPANY/MINE Mauritan Coal Company

NOV/CO # 94-26-1-1

PERMIT # Act 007/017

VIOLATION # 1 OF 1

EVENT VIOLATIONS INSPECTOR'S STATEMENT

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Check 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 of a permanent, diverse and effective vegetative cover.
- i. Other.

Small disturbed area not reporting to a sediment pond or approved as a BTCA area with treatment or approved as a SAE without treatment

2. Has the event occurred? Yes No

If yes, describe it. If no, what would cause it to occur and how likely is it that it would happen.

No runoff nor sediment was observed at the time of the inspection leaving the small area in question nor were any signs observed where prior events may have taken place. However, the area is not treated as described above

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes No

Does: Yes No

Would: Yes No

Does: Yes No

4. 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 damage would extend off the disturbed and/or permit area.

This is a rules violation since no sediment nor runoff was observed during the inspection or prior to that from leaving the small area.

Potential damage off the disturbed area. Yes No

Potential damage off the permit area. Yes No

B. DEGREE OF FAULT (Only one question applies to each violation; check one and discuss.)

() No Negligence

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

Do not requesting and providing information to support a BTCA or SAE request and approval by the Division

(✓) Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

Recommend in light of the facts cited herein and in the inspection report that no fine be assessed on this violation.

() Recklessness

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

() Knowing and Willful Conduct

Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or DSM 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 on site to achieve compliance.

BTCA - Yes

SAE - Will probably have to hire a consultant

3. Was the submission of plans prior to physical activity required by this NOV? Yes No If yes, explain.

Two options were provided

(1) BTCA or

(2) SAE

since it is not practical to construct ditches to route any future runoff to pond, i.e., no evidence of any runoff or pipe runoff or sediment leaving the area.

3/24/94

DATE

Jim J. Shubert

AUTHORIZED REPRESENTATIVE