



gpk

NO. N94-26-1-1

notice of violation

To the following Permittee or Operator:

Name Montain Coal Company

Mine Garden Creek 3#6 Surface Underground Other

County Carbow State Ut Telephone 637-2422

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

State Permit No. Act 007/017

Ownership Category State Federal Fee Mixed

Date of inspection 3/23-24/94, 19

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

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. W Malencik
Division of Oil, Gas & Mining representative

Rec. Spec
Title

[Signature]
Signature

26
Identification Number

SEE REVERSE SIDE

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

IMPORTANT — READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Board of Oil, Gas & Mining assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you, or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the Division of Oil, Gas & Mining will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be finalized unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violations within the time set for abatement or for meeting any interim step, you will be assessed a minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring you to cease surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

An informal public hearing may be held at or near the mine site if this notice requires cessation of mining, expressly or in practical effect. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice

requires cessation of mining. Please review this finding and inform the authorized representative if you disagree with it. (~~See UMC/SMC 843.15(a).~~ *R645-400-350*)

If this notice requires cessation of mining, it will expire within 30 days from date you are notified unless an informal public hearing is held or waived, or the condition, practice or violation is abated within the 30-day period. You will be notified of date, time and location of hearing. *at seg*

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice or assessment before the Board of Oil, Gas & Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary
Board of Oil, Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203.

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in ~~UMC 845.19~~ of the board's regulations. *R645-401-800 at seg*

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult Section 40-10-20, 21, 22 and 23, *Utah Code Annotated, UMC/SMC Parts 843, 845, 900* or contact the Division of Oil, Gas & Mining at (801) 538-5340. *R645-400-300 at seg*
R645-401 at seg



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 Moulin Coal Company

NOV/DO # 04-26-1-1

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 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 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 prior runoff or sediment leaving the area.

3/24/94

DATE

[Signature]

AUTHORIZED REPRESENTATIVE