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RET/007/018
Inspection

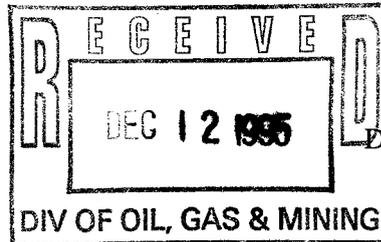
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

Michael O. Leavitt
Governor

150 North 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820
(801) 536-4000 Voice
(801) 536-4099 Fax
(801) 536-4414 T.D.D.

Dianne R. Nielson, Ph.D.
Executive Director

Russell A. Roberts
Director



DAQC-1795-95

Certified Mail

December 12, 1995

Rick Olsen
Soldier Creek Coal Company
P.O. Box 1
Price, Utah 84501

RE: SETTLEMENT AGREEMENT for Resolution of the Notice of Violation (NOV) Issued on August 30, 1995 (Number 95080040) to **Soldier Creek Coal Company** - Carbon County

Dear Mr. Olsen:

Enclosed is a Settlement Agreement to resolve the NOV issued to Soldier Creek Coal Company on August 30, 1995. In accordance with the Utah Air Conservation Rules Penalty Policy, Soldier Creek Coal Company would agree to a stipulated penalty of \$1,000 of which \$500 would be paid in cash and the remaining \$500 would be suspended for a period of two years.

If you are satisfied with the Settlement Agreement, please sign, date, and return one copy of the enclosed Agreement; the other copy is for your files. Your reply to this Agreement should be returned to the Division of Air Quality within 15 days of receipt of this letter.

Sincerely,

Russell A. Roberts, Executive Secretary
Utah Air Quality Board

RAR:CDB:ts

Enclosures: 2 Settlement Agreements

cc: EPA Region VIII, Ron Rutherford
Southeastern Utah District Health Department
Utah Division of Oil, Gas, and Mining, Paul Baker



UTAH AIR QUALITY BOARD

In The Matter of : Settlement
Soldier Creek : Agreement
Coal Company :

This Settlement Agreement is entered into between Soldier Creek Coal Company and the Utah Air Quality Board (UAQB) pursuant to the Utah Air Conservation Act (Act), Utah Code Ann. § 19-2-101 et seq. (as amended). Without adjudication of any issue of fact or law and without admission of any liability, the parties hereto, the Executive Secretary of the UAQB and Soldier Creek Coal Company hereby agree as follows:

1. The UAQB has jurisdiction over the subject matter of this Agreement, pursuant to Utah Code Ann. §§ 19-2-104 and 19-2-110, and jurisdiction over the parties.
2. The Executive Secretary of the UAQB has been authorized by the UAQB pursuant to Utah Code Ann. §§ 19-2-104, 19-2-107, and 19-2-110 to issue Notices of Violation and to negotiate and enter into Settlement Agreements on behalf of the UAQB.
3. The purpose of this Agreement is to settle the following alleged violation of the Utah Administrative Code (UAC) by Soldier Creek Coal Company, in Carbon County, Utah:

<u>Date of Violation</u>	<u>Date of Notice of Violation</u>	<u>Violation</u>
July 12, 1995	August 30, 1995	Approval Order dated July 16, 1980, Condition 2

A copy of the Notice of Violation is attached hereto and fully incorporated herewith.

4. The parties now wish to resolve this matter fully without admissions of any violations, liability, wrongdoing, failure or omissions whatsoever, and without further administrative or judicial proceedings.
5. None of the provisions of this Agreement shall be considered admissions by any party and shall not be used by any person related or unrelated to this Agreement for purposes other than determining the basis of this Agreement.
6. Compliance with this Agreement resolves only the alleged violation listed in paragraph 3 of this Agreement and in no way relieves Soldier Creek Coal Company from any future obligations imposed under the Act or Rules promulgated thereunder (Rules).

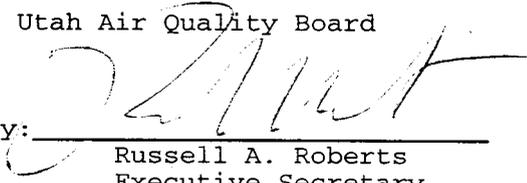
7. In settlement of the alleged violation listed in paragraph 3 of this Agreement, Soldier Creek Coal Company, agrees to a stipulated penalty of \$1,000.
8. Soldier Creek Coal Company agrees to pay \$500 of the \$1,000 stipulated penalty within 30 days from the date of this Agreement. The remaining \$500 of the stipulated penalty shall be immediately due and payable if Soldier Creek Coal Company, at any of its operations within the State, violates the provisions of this Agreement, the Act, Rules, or Orders issued by the Executive Secretary of the UAQB (Orders) within two years following the date of this Agreement. However, if Soldier Creek Coal Company does not violate this Agreement, the Act, Rules, or Orders within the next two years, the remaining \$500 stipulated penalty shall be waived.
9. Nothing in this Agreement, including payment of the remaining stipulated penalty, shall preclude the UAQB from seeking civil penalties for future violations of the Act, Rules, or Orders.
10. If the total penalty amount is not paid as agreed, this Agreement may become null and void.
11. This Agreement shall become effective upon execution by both parties.

DATED this 8th day of December, 1995.

Soldier Creek Coal Company

Utah Air Quality Board

By: _____

By:  _____

Name:
Title:

Russell A. Roberts
Executive Secretary

Attachment: NOV



DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Russell A. Roberts
Director

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Certified Mail

DAQC-1045-95

September 1, 1995

Johnny Pappas
Soldier Creek Coal Company
P.O. Box 1
Price, Utah 84501

RE: NOTICE OF VIOLATION AND ORDER FOR COMPLIANCE - Approval Order (AO) dated July 16, 1980 -
Soldier Creek Coal Company - Carbon County

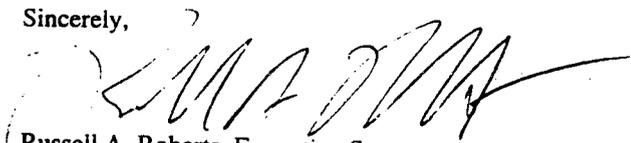
Dear Mr. Pappas:

On July 12, 1995, an inspector from the State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining, performed an inspection of Soldier Creek Coal Company, Banning Siding Loadout, located south of the junction between U.S. Highway 6 and 191 and State Route 123. During the inspection, the inspector observed and documented a violation of Condition 2 of the AO issued to Soldier Creek Coal Company on July 16, 1980.

The enclosed **NOTICE OF VIOLATION AND ORDER FOR COMPLIANCE** is based on the observations documented by the inspector. Please be advised that compliance with this **ORDER** is mandatory and will not relieve the company of liability for any past violations.

You are required to submit a compliance plan in accordance with the **ORDER** within 15 days of receipt of this notice. After the Division of Air Quality reviews the compliance plan, you will be contacted to resolve the violation. Questions regarding this matter may be directed to Cindy Beem at (801) 536-4072.

Sincerely,



Russell A. Roberts, Executive Secretary
Utah Air Quality Board

RAR:CDB:ts

Enclosure: NOTICE OF VIOLATION AND ORDER FOR COMPLIANCE

cc: Department of Environmental Quality, Dianne R. Nielson
EPA Region VIII, Ron Rutherford
Southeastern Utah District Health Department
Utah Division of Oil, Gas, and Mining, Paul Baker



THE UTAH AIR QUALITY BOARD

ooOoo

In the Matter of : Notice of Violation
Soldier Creek Coal Company : and Order for Compliance
: No. 95080040

ooOoo

This NOTICE OF VIOLATION AND ORDER FOR COMPLIANCE is issued by the UTAH AIR QUALITY BOARD (the Board) pursuant to the Utah Air Conservation Act (Act) Section 19-2-101, et seq., Utah Code Annotated 1953, as amended. The Executive Secretary is authorized to issue Notices of Violation pursuant to Section 19-2-110 of Utah Code Annotated. The Board has delegated to the Executive Secretary authority to issue ORDERS in accordance with Section 19-2-107(2)(g) of the Utah Code Annotated.

FINDINGS

1. Soldier Creek Coal Company, Banning Siding Loadout, is located south of the junction between U.S. Highway 6 and 191 and State Route 123.
2. Soldier Creek Coal Company is required to comply with the Notice of Intent and Approval Order (AO) requirements in Utah Administrative Code R307-1-3.1.
3. Soldier Creek Coal Company is required to operate in accordance with the AO dated July 16, 1980.
4. Condition 2 of the AO dated July 16, 1980, states:

"The free-fall distances of the railcar loadout and radial stackers shall be reduced to a minimum by use of tremies or drop-chutes."
5. On July 12, 1995, a representative of State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining (inspector) inspected Soldier Creek Coal Company, Banning Siding Loadout. During the inspection the inspector documented the following:
 - a. The radial stacker was operating during the inspection, however, a drop-chute was not installed at the end of the radial stacker.
 - b. The distance from the radial stacker drop point to the coal storage pile was approximately twenty feet.

- c. Winds were blowing at about 10-20 miles per hour. The winds caused a large proportion of coal dropping from the radial stacker to be carried away from the stacker.
- d. A substantial amount of coal fines were observed on the soil surface outside the disturbed area boundary, particularly to the north and east side of the loadout facility.

VIOLATIONS

Based on the foregoing FINDINGS, Soldier Creek Coal Company is in violation of Condition 2 of the AO dated July 16, 1980, for failing to reduce the free-fall distance of the radial stacker to a minimum by use of tremies or drop-chutes.

ORDER

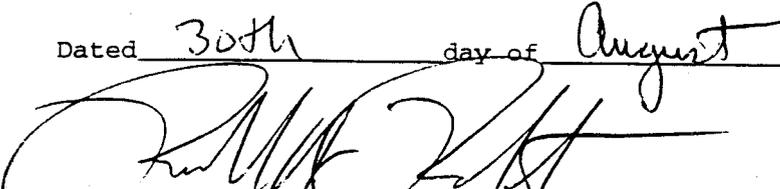
Based on the foregoing FINDINGS AND VIOLATIONS, Soldier Creek Coal Company, pursuant to Section 19-2-107(2)(g) of the Utah Code Annotated, is hereby ORDERED TO:

1. Immediately initiate all actions necessary to achieve total compliance with all applicable provisions of the Act.
2. Notify this office in writing within fifteen days of receipt of this notice of Soldier Creek Coal Company's intent to comply with this ORDER and indicate how compliance is to be achieved.

COMPLIANCE, OPPORTUNITY FOR A HEARING

This ORDER is effective immediately and shall become final unless Soldier Creek Coal Company requests, in writing, a hearing within thirty (30) days pursuant to Utah Code Annotated 19-2-110. Section 19-2-115 of the Utah Code Annotated provides that violators of the Utah Air Conservation Act and/or any ORDER issued thereunder may be subject to a civil penalty of up to \$10,000.00 per day for each violation.

Dated 30th day of August, 1995.



Russell A. Roberts, Executive Secretary
Utah Air Quality Board