

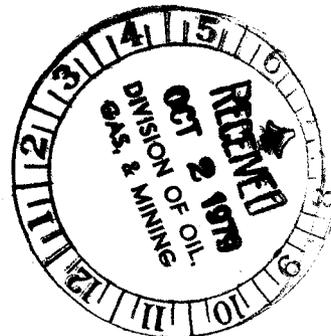
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SWISHER COAL CO.

P. O. BOX AU
PRICE, UTAH 84501
PHONE 801-637-5050

*File Copy - Rt. Army
a copy*

September 28, 1979



U.S. Dept. of Interior
Office of Surface Mining
Assessment Office
Washington, D.C. 20240

Re: C.V. Spur Preparation Facility
Violation Notice #79-5-5-29 (1)

Gentlemen:

On September 20, 1979, Swisher Coal Co. was issued a notice of violation by Gary Fritz of the OSM Region V Office. This notice was for "operating without an approved mining permit".

The remedial action required was to "submit a mining plan to the State Regulatory Authority for approval". This submittal was sent to the Utah Division of Oil, Gas & Mining that afternoon.

It should be noted that the plant itself is located on private land some twenty-five (25) miles from the mine sites, and as a result, it was unknown by our office that a mining permit was required for its operation. However, once this was brought to our attention, the company immediately submitted an application to abate the notice.

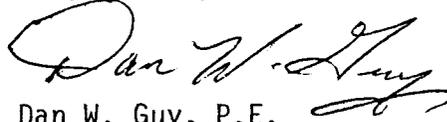
The notice was issued as a violation of Sec. 30 CFR 717.11 of the rules and regulations. This regulation does necessitate permitting of processing areas; however, the State of Utah Mined Land Reclamation Act, Title 40-8, specifically excludes such off-site operations and transportation from the definition of a "mining operation". (See page 51, paragraph 6.) It appears that no mechanism actually exists in the Utah Act for inclusion of C.V. Spur as a mining operation that needed to be permitted, and as a result, Swisher Coal Co. does intend to apply for review of this notice to the Hearings Division within the thirty (30) days allowed.

It is our request that in your review you consider not only our

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diligence in abating this notice, but also the fact that it is
in disagreement with the State Act.

Respectfully,



Dan W. Guy, P.E.
Chief Engineer

DWG/rh

cc: Gary Fritz, Region V Office

✓ Ron Daniels,
Utah Division of Oil, Gas & Mining

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