



0036

Handwritten initials/signature

NO. N 93-26-4-1

notice of violation

To the following Permittee or Operator:

Name Sunnyside Cogeneration Associates

Mine Sunnyside Coarse Refuse Surface Underground Other

County Carbon State Ut Telephone 801-888-4476

Mailing Address P.O. Box 58087, Salt Lake City, Ut. 84158-0087

State Permit No. Act 0071035

Ownership Category State Federal Fee Mixed

Date of inspection October 15, 1993, 19

Time of inspection 2:00 a.m. p.m. to 3:30 a.m. p.m.

Operator Name (other than Permittee) N/A

Mailing Address N/A

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.

Date of service/mailling Oct. 15, 1993 Time of service/mailling 2:00 a.m. p.m.

Sunnyside Cogeneration Assoc.
Permittee/Operator representative

ENVIRONMENTAL COORDINATOR
Title

Signature [Signature]

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

Rec. Spec.
Title

Signature [Signature]
10/15/93

26
Identification Number

SEE REVERSE SIDE

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



NOTICE OF VIOLATION NO. N 93-26-4-1

Violation No. 1 of 1

Nature of violation

Failure by the permittee to pay all reclamation fees required for coal produced under the permit for sale, transfer or use, pursuant to surface coal mining.

Refer to attached letter from Roy E. Morris, dated Oct 1, 1993.

Provisions of act, regulations or permit violated

R645-300-147

Portion of operation to which notice applies

Retuse pile mining area

Remedial action required (including any interim steps)

Pay all past due reclamation fees and comply with requirements detailed in 30 CFR, Part 870

Maintain required records on AMW fees at the mine site associate with the instant failure to pay all fees.

Abatement time (including interim steps)

October 28, 1993 1pm.



United States Department of the Interior



OFFICE OF SURFACE MINING

Reclamation and Enforcement

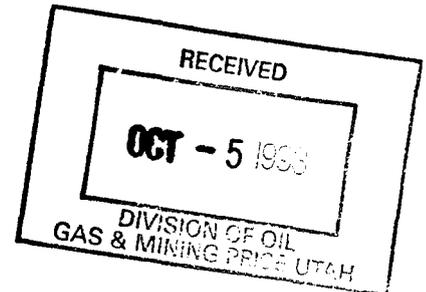
P.O. Box 25065

Denver Federal Center

Denver, Colorado 80225-0065

OCT 1 1993

Mr. Bill Malencik
Division of Oil, Gas and Mining
P.O. Box 169
451 E. 400th North
Price, Utah 84501-2699



Dear Mr. Malencik:

Thank you for your telephone call to JoAnn Hagan on September 28, 1993, notifying her that Sunnyside Cogeneration Associates, P.O. Box 58087, Salt Lake City, Utah 84158, was actively mining on permit No. ACT007035. The company has not paid reclamation fees. We checked with Steve Rathbun at the Albuquerque Field Office, who said that the company should be paying fees at the surface rate of \$.35 per ton.

We will send the company a Coal Reclamation Fee Report, OSM-1. Again thank you for this information. If we can be of further assistance to you, please call JoAnn Hagan at (303) 236-0368.

Sincerely,

Roy E. Morris
Chief, Division of
Financial Management

COMPANY/MINE

Sunnyside Cogeneration Plant

NOV/CD # 93-26-41

PERMIT #

Act 007/035

VIOLATION #

1

OF

1

HINDRANCE TO ENFORCEMENT VIOLATIONS INSPECTORS STATEMENT

A. HINDRANCE TO ENFORCEMENT (Answer for hindrance violations only such as violations concerning recordkeeping, monitoring, plans and certification.)

1. Describe how violation of this regulation actually or potentially (check one) hindered enforcement by DOGM and/or the public and explain the circumstances.

R-645-300-147 requires permit holder to pay reclamation fees for all coal produced under permit for sale, transfer, or use, pursuant to surface coal mining. Furthermore, the approved MRA, part 112.230, pg 100-2, Book 1 states in substance that the permittee would work with OSM on fee payment. g

B. DEGREE OF FAULT (Only one question applies to each violation, check 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.

()

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.

The rationale for the recklessness determination is based on the fact that fees, when paid and appropriated are utilized for the SUCRA mine reclamation. Failure to pay such fees would be may delay reclamation. Furthermore, since the permittee was put on notice concerning fee payment it is clearly beyond ordinary negligence

()

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.

g Also on 2/11/93 at a courtesy inspection the matter of reclamation fee was brought up by the undersigned. Suggested that the permittee rescind the Hawortha refuse mining fee precedent case that the Utah Supreme Court ruled in the favor of the government.

COMPANY/MINE Summit Co. Gen

NOV/EO # 93-26-4-1

PERMIT # Act 009/035

VIOLATION # 1 OF 1

() 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.

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.

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

10/22/93
DATE

Jim. J. Malachuk
AUTHORIZED REPRESENTATIVE