

BEFORE THE DIVISION OF OIL GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE APPEAL OF FACT OF VIOLATION C93-13-2-1, SUNNYSIDE COGENERATION ASSOCIATES, CARBON COUNTY, UTAH	: : :	FINDINGS, CONCLUSIONS AND ORDER  CAUSE NO. ACT/007/035
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On May 11, 1994, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Sunnyside Cogeneration Associates (SCA) for the above-referenced Cessation Order (CO). The following individuals attended:

Presiding:	James W. Carter Director
Petitioner:	Brian Burnett, Attorney Sunnyside Cogeneration Associates
Division:	Joe Helfrich Assessment Officer
Board:	Ronald W. Daniels Assessment Conference Officer

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. The Assessment Conference, to review the proposed penalties for CO C93-13-2-1, was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

3. Cessation Order C93-13-2-1 was written for failure to abate NOV N93-32-5-2, part 1 of 2, within the time fixed for abatement.

4. SCA failed to abate NOV N93-32-5-2 by the date established for abatement in the NOV.

5. Cessation Order C93-13-2-1 was served on SCA on December 8, 1993. SCA submitted a requested for extension of its abatement date to DOGM on December 9, 1993. Notice of Termination of the CO was served on SCA on December 20, 1993.

#### CONCLUSIONS OF LAW

1. SCA's failure to either abate NOV N93-32-5-2, part 1 of 2, by the abatement date, or to request extension and provide justification for extension of the abatement date on or before the date set for abatement required issuance of CO C93-13-2-1 pursuant to rule R645-400-325.

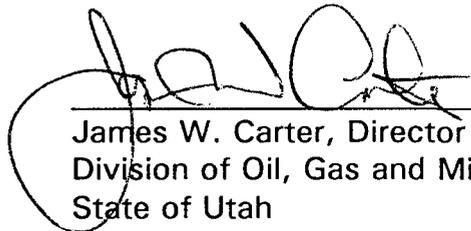
2. Pursuant to rule R645-100-820, the day on which the Co was served is ~~not~~ included in calculating the number of days the CO existed. Accordingly, the final assessment listing two days of failure to abate is erroneous, and should be reduced to one day. ✓

ORDER

NOW THEREFORE, it is ordered that:

1. CO C93-13-2-1 is upheld and modified to one day of failure to abate.
2. The finalized assessment, resulting from the Assessment Conference of May 11, 1993, as modified by this Order, is due and payable to the Division 30 days from the date of this Order.
3. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 20<sup>th</sup> day of June 1994.

  
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James W. Carter, Director  
Division of Oil, Gas and Mining  
State of Utah

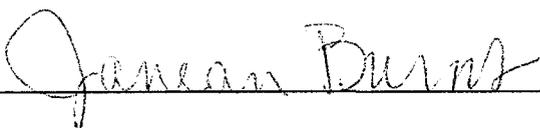
CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER for Cause No. ACT/007/035 to be mailed by certified mail, postage prepaid, on the 24 day of June 1994, to the following:

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