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UTAH
NATURAL RESOURCES
Oil, Gas & Mining

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VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name SOUTHWEST COGENERATION ASSOCIATES

Mailing Address P.O. BOX 58087, SALT LAKE CITY, UT 84158-0087

State Permit No. ACT/007/035

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated* (1953):

Notice of Violation No. N 93-13-1-1 dated OCT 15, 19 93.

Cessation Order No. C _____ dated _____, 19 ____.

Part 1 of 1 is ☐ vacated ☒ terminated because PLANS AND DESIGNS PROVIDED BY SCA WERE FOUND TO BE SUFFICIENTLY COMPLETE AND ADEQUATE TO MEET THE ABATEMENT REQUIREMENTS OF THIS VIOLATION. SEE ATTACHED FINDING

Part ____ of ____ is ☐ vacated ☐ terminated because _____

Part ____ of ____ is ☐ vacated ☐ terminated because _____

Date of service mailing 1-21-94 Time of service/mailing 3:00 ☐ a.m. ☒ p.m.

FRED FINLINSON
Permittee Operator representative

RESIDENT AGENT FOR SCA
Title

Signature

J. RANDALL HAZDEN
Division of Oil, Gas & Mining

SR. RECL. ENGR.
Title

Signature

WHITE – DOGM YELLOW – OSM PINK – PERMITTEE OPERATOR GOLDENROD – NOV FILE

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ANALYSIS AND FINDINGS
SUNNYSIDE COGENERATION ASSOCIATES
REFUSE AND SLURRY OPERATIONS
ACT/007/035-93P
January 19, 1994

RE: Proposed Permit Changes in response to violation N93-13-1-1, Sunnyside Cogeneration Associates, ACT/007/035-93P, Folder #3, Carbon County, Utah

SUMMARY:

Violation N93-13-1-1 requires that SCA comply by identifying, describing and locating all surface coal mining and reclamation activities by submitting adequate permit changes to the plan which effectively describe and/or incorporate those structures into the permit and affected area. The area of the violation is the road and facilities which were adjacent to the permit area at the time of the violation. The analysis and findings hereunder are in consideration of the permit changes proposed by SCA.

A proposed permit change was submitted to the Division on December 8, 1993 as part of the abatement requirements of the above violation. Information supplemental to that proposal was provided on December 21 and December 30, 1993. Changes to the plan are found in Chapter 4 of the plan. A series of drawings, Plates 1-1, 4-5, 5-3, 7-1 and 7-1A have also been revised and included in the proposal to reflect changes to the plan.

ANALYSIS:

As part of the proposed changes to the plan, SCA has proposed to incorporate the area referred to as the New Access Road into the Permit Area. The disturbed area included in the proposal will be incorporated into the drainage area which presently reports to the Pasture Sediment Pond. Road designs and supporting hydrology calculations have been provided by SCA. The structures and facilities which are proposed to be incorporated into the Permit Area include the New Access Road, a waste coal storage area within the loop of the access road, and a culvert, diversion ditch and berm system for drainage control.

SCA further asserts that other facilities and structures adjacent to the permit area are not part of the permitted mining and reclamation operations, but are an integral part of the power plant operations. In addition to those facilities described above which are to be incorporated into the permit area, SCA has described facilities and structures which SCA believes to be part of the adjacent power plant operations. These facilities include, but are not limited to, the waste coal receiving hopper, transfer conveyors, scalping screen, crusher system, stacking conveyor and three live storage silos with conveyors for the sized materials to feed onto the power plant feed conveyor. A more detailed description of these facilities is found in Chapter 4 of the proposed permit change. The location and the orientation of these facilities can be found on Sheet 4-5.

SCA maintains that the coal-handling facilities are solely related to those structures and facilities which are required for the Sunnyside Cogeneration power plant. SCA states that the power plant activities which occur outside of the SMCRA permitted area are performed in a controlled manner, under permits from other agencies, and have been incorporated into the entire design and plan for the SCA Cogeneration facility. Evaluation of SCA's proposal must include a determination as to which of these structures and facilities are constructed and utilized in conjunction with coal mining and reclamation operations as defined under the Coal Rules.

"Coal Mining and Reclamation Operations" means "(a) activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of section 40-10-18 of the Act, surface coal mining and reclamation operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include all activities necessary and incidental to the reclamation of the operations, excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in-situ distillation; or retorting, leaching, or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. Provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16-2/3 percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to section 40-10-8 of the Act; and, provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and (b) the areas upon which the activities described under part (a) of this definition occur or where such activities disturb the natural land surface. These areas will also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities."

With respect to the crushing and conveying system utilized in conjunction with the power plant facilities, analysis of the operation relies on a determination as to whether or not the coal processing operations conducted outside the permit area are being conducted in connection with a mine. Coal preparation plants are cited in the Federal Register Vol. 58, January 8, 1993, pp 3467-3469 which was written to clarify the requirements under 30 CFR 785. The FR indicates that surface coal mining regulatory authorities are not precluded from considering the element of geographic proximity in deciding whether an off-