OGMCOAL - NOV 10072

From: OGMCOAL
To: Erwin Sass; vmiller@archcoal.com
Date: 1/5/2011 8:43 AM
Subject: NOV 10072
CC: Daron Haddock; Jim Smith; Steve Christensen
Attachments: NOV10072.pdf

Attached is NOV 10072. It will be mailed certified today, 1/5/11.

Thanks

GARY R. HERBERT
Governor

GREGORY S. BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining
JOHN R. BAZA
Division Director

January 5, 2011

Erwin Sass, General Manager
Canyon Fuel Company, LLC
P.O. Box 1029
Wellington, Utah 84542

Subject: Notice of Violation #10072, Canyon Fuel Company, LLC., Dugout Canyon Mine, C/007/0039, Outgoing File

Dear Mr. Sass:

Based upon the December 16, 2010 field inspection conducted by Division of Oil, Gas and Mining representatives, a Notice of Violation (NOV) has been issued (See Attached).

The issuance of the NOV is a result of a failure to protect surface-water quality by allowing ground-water discharge to contribute additional suspended solids to streamflow outside the permit area; and otherwise prevent water pollution. Groundwater discharge from UPDES Outfall 005 at the Pace Canyon Fan facility is producing orange staining of the Pace Creek Channel outside of the permit area due to elevated levels of total iron. Corrective measures are required in order to abate the NOV.

Please call me (801) 538-5262 or Steve Christensen (801) 538-5350 with any questions or concerns that you may have.

Sincerely,

Daron Haddock
Permit Supervisor

DRH/SKC/sqs
Attachment
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Citation for Non-Compliance
Utah Coal Regulatory Program

1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 10072
Permit Number: C0070039
Date Issued: 01/05/2011

☑ NOTICE OF VIOLATION ☐ CESSATION ORDER (CO) ☐ FAILURE TO ABATE CO

Permittee Name: CANYON FUEL COMPANY	Inspector Number and ID:	54	SCHRISTE
Mine Name: DUGOUT CANYON MINE	Date and Time of Inspection:	12/16/2010	
Certified Return Receipt Number: 7005 0390 0000 7507 4863	Date and Time of Service:	01/05/2011	

Nature of condition, practice, or violation:
Permittee failed to protect surface-water quality by allowing ground-water discharge to contribute additional suspended solids to streamflow outside the permit area; and otherwise prevent water pollution. Groundwater discharge from UPDES Outfall 005 at the Pace Canyon Fan facility is producing orange staining of the Pace Creek channel outside of the permit area due to elevated levels of total iron.

Provisions of Act, regulations, or permit violated:
R645-301-731.121

☐ **This order requires Cessation of ALL mining activities.** (Check box if appropriate.)

☐ Condition, practice, or violation is creating an imminent danger to health or safety of the public.	☐ Permittee is/has been conducting mining activities without a Permit.
☐ Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.	☐ Permittee has failed to abate Violation(s) included in ☐ Notice of Violation or ☐ Cessation Order within time for abatement originally fixed or subsequently extended.

☐ **This order requires Cessation of PORTION(S) of mining activities.**

Mining activities to be ceased immediately: ☐ Yes ☐ No	Abatement Times (if applicable).

Action(s) required: ☑ Yes ☐ No
(See Attached)

	STEVE CHRISTENSEN
(Print) Permittee Representative	(Print) DOGM Representative
Permittee Representative's Signature - Date	DOGM Representative's Signature - Date

SEE REVERSE SIDE Of This Form For Instructions And Additional Information

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Coal Mined Land Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGM) has conducted an inspection and found that a Notice of Violation or Cessation Order must be issued.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. **PENALTIES.**
   Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the cessation order and proposed fine, please submit that to DOGM within ***15 days of the date this notice or order is served on you or your agent.*** Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, no later than 30 days of the issuance of this notice or order. See Utah Admin. Code R645-401-600 et. seq.

   The penalty will be final unless you or your agent file, within 15 days of receipt of the proposed assessment, a written request for an informal hearing before the assessment officer.

   Assessment. For each violation included in this notice, a penalty of up to $5,000 may be assessed for each separate day the violation continues.

   If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of $750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring cessation of surface coal mining operations or the portion of the operations relevant to the violation.

2. **INFORMAL PUBLIC HEARING.**
   On the reverse side of this page, an authorized representative has made a finding as to whether or not this notice requires cessation of mining. If this order or notice requires cessation of mining, expressly or in practical effect, you may request that an informal public hearing be held at or near the mine site. If you wish an informal public hearing be held, please contact an authorized representative from DOGM. See Utah Admin. Code R645-400-350 et seq. Once an informal public hearing is scheduled, you will be notified of the date, time, and location of the hearing.

   If this notice requires cessation of mining, it will expire within 30 days from the date you are notified unless an informal public hearing is held or waived, or the condition, practice, or violation is abated within the 30-day period.

3. **FORMAL REVIEW AND TEMPORARY RELIEF.**
   You may appeal this notice or order to the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of this notice or order. See Utah Admin. Code R645-300-164.300. Please submit the application for hearing to:

   Secretary
   Board of Oil, Gas, and Mining
   1594 West North Temple, Suite 1210
   PO Box 145801
   Salt Lake City, Utah 84114-5801

   If applying for a formal board hearing, you may submit with your petition for review a request for "***temporary relief***" from this notice. Procedures for obtaining a formal board hearing are contained in the Board's Rules of Practice and Procedure and in Utah Admin. Code R645-401-800 et. seq.

4. **EFFECT ON PERMIT.**
   The permit may be suspended or revoked if it is determined that a pattern of violations of the Act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

   For further information, consult Utah Code Ann. § 40-10-20 through 40-10-23 and Utah Admin. Code R645-400-300 et. seq. and R645-401 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.

Dugout Canyon Mine
NOV #10072
Actions Required for NOV Abatement

- Within 30 days of receipt of the NOV, submit plans for Division approval and incorporation into the Mining and Reclamation Plan (MRP) that depict/discuss measures that will be implemented to prevent additional contributions of suspended solids from leaving the permit area and otherwise prevent water pollution.

- Immediately, establish a pre-treatment mine water monitoring point and begin sampling on a monthly basis. Parameters to be analyzed include: total and dissolved iron, sulfate, alkalinity, total dissolved solids, total suspended solids, field conductivity, field temperature, field dissolved oxygen and field pH. The additional monitoring point must be added to the currently approved water monitoring program in the MRP along with a commitment to provide the monthly data to the Division via the electronic water monitoring database.

- 45 days after receiving final Division approval of the plans, the preventive measures must be constructed and functioning as designed.