

0014



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

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3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
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MR. CARTER

For Your Info

July 20, 1995

TO: James W. Carter, Director

THRU: Lowell P. Braxton, Associate Director, Mining

THRU: Joseph C. Helfrich, Permit Supervisor

FROM: William J. Malencik, Reclamation Specialist *WJM*

RE: Hidden Valley Coal Mine, ACT/015/007, Folder #2, Emery County, Utah

This memorandum has reference to our meeting of June 29, 1995, regarding the issuance of a Notice of Violation ("NOV"). I was provided a 10-day window to ascertain if the necessary on-the-ground work could be accomplished without the necessity of taking formal compliance action.

Since our meeting of the 29th, I have not received any information from Mr. Edmonson. On the other hand, I have received a letter from his attorney, Denise Dragoo. From the tone of her letter, it appears that getting the environmental work done without formal compliance action will not be possible.

I telephoned Mr. Edmonson to fully understand his position. He is in Los Angeles. Talked to Carol, his secretary, and she said she would try to get Mr. Edmonson to phone me. In his absence tried to contact Mrs. Dragoo, but she is out until July 25th.

Again, reviewing the pros and cons in my own mind, the following key points come to the forefront:

Cons

1. I executed an NOV on the same issue in 1991 and the Utah Court of Appeals in substance did not uphold the District Court decision, even though the District Court upheld the administrative decision.

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James W. Carter
ACT/015/007
July 20, 1995

2. I do not have any new evidence. Further in my opinion, the vegetation on the area of concern is no different than in 1991.
3. Executed stipulation between DOGM and Hidden Valley Coal Company provides there shall be no further appeals as to the facts of violation concerning vegetation as related to the NOV I executed in 1991, i.e., N91-26-8-2.
4. The Division stipulated that it would not appeal the Appellate Court decision. Issuing an NOV at this time is contrary to the stipulation signed by the Assistant Attorney General for the Division.

Pros

1. Mr. Edmonson did perform the required field work on two other issues that were involved in the N91-26-8-2 violation when compliance action was discussed as a final course of action.
2. Pending permit transfer to Consolidated Coal Company.

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EXHIBIT VI

July 5, 1995

Lee Edmonson
Properties Division
Cal Mat Company
1801 East University Drive
Phoenix, Arizona 85034

RE: Mining and Reclamation Seeding Commitment, Hidden Valley Mine, Cal Mat Company, ACT/015/007, Emery County, Utah

Dear Mr. Edmonson:

I am writing about disturbed areas that have not been seeded at the Hidden Valley Mine. Attached is a copy of my June inspection report. It highlights certain phone discussions and moreover, conclusions from Director Carter, as a result of phone discussions that were outlined to me on June 29, 1995. The phone discussions alluded to are those among Director Carter, Messrs. Edmonson, and Settle.

This matter was discussed further at the Division meeting on June 29, 1995. Personnel attending the meeting included Carter, Braxton, Helfrich, and the undersigned. Also, Mr. Carter consulted with Tom Mitchell of the Attorney General's office prior to the meeting.

Before considering and taking suggested enforcement action, proposed to DOGM management that I am allowed 10 days to try to resolve this issue without the necessity of writing a violation to Cal Mat Company.

Violation N91-26-8-2 concerned these issues:

- (1) Erosion road outslope on the reclaimed road,
- (2) Not seeding and mulching all disturbed areas as committed to in the Mining and Reclamation plan, and
- (3) Disturbed markers not properly located on a portion of the reclaimed road.

Page 2
L. Edmonson
Seeding
July 5, 1995

Issue (1) and (3) have been resolved with the cooperation of Mr. Edmonson and others. Further, it is in the best interest among all the concerned as discussed in our July 1994, meeting to rely on overall bond release requirements on the total site rather than on compliance to move toward long range common objectives.

It is in this spirit that I write you to explore how we may resolve the seeding issue without the necessity of relying on compliance and/or further litigation to resolve this matter.

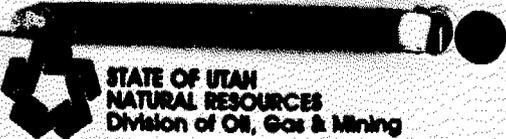
It is my sincere opinion that we can do together what we cannot do alone. Would be amenable to utilize the seeding abatement plan you submitted in response to N91-26-8-2 as a starting point to resolve this matter.

Sincerely,



Wm. J. Malencik
Reclamation Specialist

sd
cc: Ed Settle, Consol



NO. N 95-26-2-1

notice of violation

To the following Permittee or Operator:

Name Cal Mat Company

Mine Hidden Valley Mine Surface Underground Other

County Emery State Utah Telephone (602) 254-8465

Mailing Address 1801 East University Drive, Phoenix, AZ 85034

State Permit No. ACT/015/007

Ownership Category State Federal Fee Mixed

Date of inspection June 14, 1995

Time of inspection 1:00 a.m. p.m. to 4:00 a.m. p.m.

Operator Name (other than Permittee) _____

Mailing Address _____

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.

Certified Z 254 438 027

Date of ~~###~~/mailing July 20, 1995

Time of ~~###~~/mailing _____ a.m. p.m.

Lee Edmonson
Permittee/Operator representative

Manager
Title

Signature

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

Reclamation Specialist
Title

Signature

#26
Identification Number

SEE REVERSE SIDE

WHITE-DOG M YELLOW-OPERATOR PINK-OSM GOLDENROD-NOV FILE



NOTICE OF VIOLATION NO. N 95-26-2-1

Violation No. 1 of 1

Nature of violation

Failure to comply with the terms and conditions of Hidden Valley Coal Mine
and reclamation plan, permit ACT/015/007.

Provisions of act, regulations or permit violated

UCA, Title 40, Chapter 10, Paragraph 40-10-22
R645-300-140 and -143

Portion of operation to which notice applies

Hidden Valley Coal Mine approved reclamation plan

-Page 46, Section 5.1, Item 5

-Page 56, UMC 817.111, Revegetation: General Requirements

Certain Disturbed Areas not Seeded, to-wit:

-Road Outslope

-Stream Buffer Zone, Ivie Creek Upslope

Remedial action required (including any interim steps)

Revegetate all disturbed areas following the revegetation requirements as

itemized and discussed in the approved reclamation plan, which among other items
includes seedbed preparation, fertilization, required seed mix, and alfalfa hay
mulch at the rate of 4000 lbs per acre.

Abatement time (including interim steps)

September 29, 1995