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M E M O R A N D U M
* * * * *

TO: The Board of Oil, Gas and Mining
FROM: The Division Staff
SUBJECT: Proposed Assessment for:
Trail Mountain Coal Mine - ACT/015/009
Violations Encountered June 5, 1980
Failure to Abate and Cessation Order
Issued from July 8, 1980 Inspection
DATE: July 31, 1980

In response to your request concerning assessment procedures on said violations and subsequent cessation order issued on The Fetterolf Group's Trail Mountain Coal Mine (ACT/015/009), the Division hereby proposes the following assessment schedule:

For violations issued under the Act, House Bill 138, Section 40-10-20(1), any permittee who violates any permit condition or who violates any other provision of this chapter may be assess a civil penalty by the Board, except that if the violation leads to the issuance of a cessation order under Section 40-10-22, the civil penalty shall be assessed. This penalty shall not exceed \$5,000.00 for each violation. Each day of separate violation may be deemed a separate violation for purposes of the penalty assessments. In determining the amount of penalty, consideration shall be given to the permittees history of previous violations at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the (?) demonstrates good-faith of the permittee charged in attempting to achieve compliance after notification of the violation.

Requirements for assessing civil penalties described in Section 40-10-20(1) of H.B. 138, the Act and listed in UMC Part 845.2-845.15(a) of Chapter 1 of the Permanent Regulations are as follows:

PART UMC 845 - CIVIL PENALTIES

UMC 845.2 Objective.

Civil penalties are assessed under 40-10-20 of the Act and this Part to deter violations and to ensure maximum compliance with the terms and purposes of the Act on the part of the coal mining industry.

UMC 845.11 How assessments are made.

The Board shall independently review the proposed assessment prepared by the Division for each notice of violation and cessation order in accordance with the assessment procedures...etc.

UMC 845.12 When penalty will be assessed.

(a) The Board shall assess a penalty for each cessation order.

(b) The Board shall assess a penalty for each notice of violation, if the violation is assigned 31 points or more under the point system described in UMC 845.13.

(c) The Board may assess a penalty for each notice of violation assigned 30 points or less under the point system described in UMC 845.13. In determining whether to assess a penalty, the Board shall consider the factors listed in UMC 845.13(b).

UMC 845.13 Point system for penalties.

(a) The Board shall use the point system described in this Section to determine the amount of the penalty and, in the case of notices of violations, whether a mandatory penalty should be assessed as provided in UMC 845.12(b).

(b) Points shall be assigned as follows:

(1) History of previous violations. The Board shall assign up to 30 points based on the history of previous violations. One point shall be assigned for each past violation contained in a notice of violation. Five points shall be assigned for each violation (but not a condition or practice) contained in a cessation order. The history of previous violations, for the purpose of assigning points, shall be determined and the points assigned with respect to a particular coal exploration or underground coal mining activities. Points shall be assigned as follows:

(i) A violation shall not be counted, if the notice or order is the subject of pending judicial review or if the time to request such review or to appeal any judicial decision has not expired, and thereafter it shall be counted for only one year;

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(ii) No violation for which the notice or order has been vacated shall be counted; and

(iii) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(2) Seriousness. The Board shall assign up to 30 points based on the seriousness of the violation, as follows:

(i) Probability of occurrence. The Board shall assign up to 15 points based on the probability of the occurrence of the event which a violated standard is designed to prevent. Points shall be assessed according to the following schedule:

Probability of occurrence	Points
None.....	0
Insignificant.....	1-4
Unlikely.....	5-9
Likely.....	10-14
Occurred.....	15

(ii) Extent of potential or actual damage. The Board shall assign up to 15 points, based on the extent of the potential or actual damage in terms of area and impact on the public or environment, as follows:

(A) If the damage or impact which the violated standard is designed to prevent would remain within the coal exploration or permit area, the Board shall assign zero to seven points, depending on the duration and extent of the damage or impact.

(B) If the damage or impact which the violated standard is designed to prevent would extend outside the coal exploration or permit area, the Board shall assign eight to fifteen points, depending on the duration and extent of the damage or impact.

(iii) Alternative. In the case of a violation of an administrative requirement, such as a requirement to keep records, the Board shall, in lieu of paragraphs (i) and (ii), assign up to 15 points for seriousness, based upon the extent to which enforcement is obstructed by the violation.

(3) Negligence. (i) The Board shall assign up to 25 points based on the degree of the fault of the person to whom the notice or order was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned 12 points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned 13 to 25 points, depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of points to be assigned, the following definitions apply:

(A) No negligence means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) Negligence means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act or this Chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

(C) A greater degree of fault than negligence means reckless, knowing, or intentional conduct.

(iii) In calculating points to be assigned for negligence, the acts of all persons working on the coal exploration or underground coal mining site shall be attributed to the person to whom the notice or order was issued, unless that person establishes that they were acts of deliberate sabotage.

(4) Good faith in attempting to achieve compliance.

(i) The Board shall add points based on the degree of good faith of the person to whom the notice or order was issued in attempting to achieve rapid compliance after notification of the violation. Points shall be assigned as follows:

Degree of good faith	Points
Rapid compliance.....	-1 to -10
Normal compliance.....	0

(ii) The following definitions shall apply under paragraph (b)(4)(i) of this Section:

(A) Rapid compliance means that the person to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(B) Normal compliance means the person to whom the notice or order was issued abated the violation within the time given for abatement.

(iii) If the consideration of this criterion is impractical because of the length of the abatement period, the assessment may be made without considering this criterion and may be reassessed after the violation has been abated.

(c) To assist the Board in administering a point system for penalties, the Division shall prepare for independent review by the Board a proposed assessment document summarizing the violation and assigning the violation points pursuant to this subdivision.

UMC 845.14 Determination of amount of penalty.

Points	Dollars	Points	Dollars	Points	Dollars
1	20	25	500	49	2,900
2	40	26	600	50	3,000
3	60	27	700	51	3,100
4	80	28	800	52	3,200
5	100	29	900	53	3,300
6	120	30	1,000	54	3,400
7	140	31	1,100	55	3,500
8	160	32	1,200	56	3,600
9	180	33	1,300	57	3,700
10	200	34	1,400	58	3,800
11	220	35	1,500	59	3,900
12	240	36	1,600	60	4,000
13	260	37	1,700	61	4,100
14	280	38	1,800	62	4,200
15	300	39	1,900	63	4,300
16	320	40	2,000	64	4,400
17	340	41	2,100	65	4,500
18	360	42	2,200	66	4,600
19	380	43	2,300	67	4,700
20	400	44	2,400	68	4,800
21	420	45	2,500	69	4,900
22	440	46	2,600	70	5,000
23	460	47	2,700		
24	480	48	2,800	and above	

UMC 845.15 Assessment of separate violations for each day.

(a) The Board may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the Board shall consider the factors listed in UMC 845.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which is assigned more than 70 points under UMC 845.13(b), the Office shall assess a civil penalty for a minimum of two separate days.

(b) Whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order, a civil penalty of not less than \$750.00 shall be assessed for each day during which such failure continues, except that, if the person to whom the notice or order was issued initiates review proceedings with respect to the violation, the abatement period shall be extended as follows:

(1) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under 40-10-22(3) of the Act, after determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Board issues a final order with respect to the violation in question; and

(2) If the person to whom the notice or order was issued initiates review proceedings under 40-10-21 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court.

(c) To assist the Board in determining whether to assess separate violations for each day of violation, the Division shall prepare a proposed assessment document summarizing the violation and the factors set forth at UMC/SMC 845.15 concerning assessment of separate daily violations for independent review by the Board.

UMC 845.16 Waiver of use of formula to determine civil penalty.

(a) The Board upon their own initiative or upon written request received by the Division within 15 days of issuance of a notice of violation or a cessation order, may waive the use of the formula contained in SMC 845.13 to set the civil penalty, if they determine that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust.

However, the Board shall not waive the use of the formula or reduce the proposed assessment on the basis of an argument that a reduction in the proposed penalty could be used to abate violations of the Act, this Chapter, any applicable program, or any condition of any permit or exploration approval. The basis for every waiver shall be fully explained and documented in the records of the case.

(b) If the Board waives the use of the formula, they shall use the criteria set forth in UMC 845.13(b) to determine the appropriate penalty. When the Board has elected to waive the use of the formula, they shall give a written explanation of the basis for the assessment made to the person to whom the notice or order was issued.

(c) To assist the Board in determining the need for waiver of the formula contained in UMC/SMC 845.13 the Division will address this issue in the proposed assessment document prepared for independent review by the Board.

UMC 845.17 Procedures for assessment of civil penalties.

(a) Within 15 days of service of a notice or order, the person to whom it was issued may submit written information about the violation to the Division and to the inspector who issued the notice of violation or cessation order. The Board shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Division shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, within 30 days of the issuance of the notice or order. If the mail is tendered at the address of that person set forth in the sign required under UMC 816.11, or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such mail, the requirements of this Paragraph shall be deemed to have been complied with upon such tender.

(c) Within 15 days of receipt of the proposed assessment, the person or company to whom it was issued may request in writing a formal hearing before the Board to object to the proposed assessment. Said objections will be set for hearing before the Board within 30 days from the date of receipt of such request. Upon the request of any interested person, the Board shall appoint a hearing examiner to conduct a hearing in the vicinity of the site of the violation for the purpose of taking evidence and recommending findings of fact and conclusions of law for ultimate disposition by the Board.

(d) The Board shall review if no objection is received concerning the proposed assessment the Board shall, within 30 days from receipt of the Division's proposed assessment and assess a penalty. The Division shall serve a copy of any such reassessment and of the worksheet showing the computation of the assessment in the manner provided in Paragraph (b), within 30 days after the date the violation is abated.

(e) If a hearing is requested, the Board will consider the proposed assessment and any objections to the proposed assessment and enter an order affirming, raising, lowering or vacating the proposed assessment in accordance with the criteria set forth in Part 845.

UMC 845.19 Payment of penalty and request for hearing.

(a) The penalty assessed by the Board must be paid by the person or company charged with the violation within 30 days of receipt of the Board order assessing such penalty.

(b) The person charged with the violation may contest the proposed penalty or the fact of the violation in a court of appropriate jurisdiction after the penalty for such violation has been paid to the Board.

(c) The Board shall transfer all funds submitted under paragraph (a) to the Division which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in Section 40-10-25(e) of the Act.

UMC 845.20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in UMC/SMC 845.19, the proposed assessment shall become a final order of the Board and the penalty assess shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If ay party requests judicial review of a final order of the Board, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to Paragraph (c) of this Section, the escrowed funds shall be transferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order reducing or eliminating the proposed penalty assess under this Part, the Board shall within 30 days of receipt of the order refund to the prson assessed all or part of the excrowed amount, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Board within 15 days after the order is mailed to such person.

In reference to Section UMC 845.2 through UMC 845.14 of the Permanent Regulations the Division hereby proposes the following penalties:

POINT SYSTEM FOR VIOLATIONS ENCOUNTERED DURING JUNE 5, 1980 INSPECTION

MAXIMUM ALLOWABLE POINTS 30 30 25 -10

<u>AGENCY</u>	<u>VIOLATION #</u>	<u>HISTORY</u>	<u>SERIOUS- NESS</u>	<u>NEGLI- GENCE</u>	<u>GOOD- FAITH</u>	<u>TOTAL</u>	<u>FINE</u>
Fed.	#1-30 CFR 717.14(c)	-	24	15	-	39	1,900
State	MC 717.14(E)						
Fed.	#2-30 CFR 717.17	1	22	25	-	48	2,800
State	MC 717.17						
Fed.	#3-30 CFR 717.17(a)	2	27	25	-	54	3,400
State	MC 717.17(a)						
Fed.	#4-30 CFR 717.17(j)(2)(i)	-	27	20	-	47	2,800
State	717.17(j)(1)						
Fed.	#5-30 CFR 717.17(j)(1)	2	25	25	-	52	3,200
State	MC 717.17(j)						
State	#6 MC 717.11	1	16	20	-	37	1,700
State	#7-MC 717. 17(B)(1)(v)	1	16	20	-	37	1,700
State	#8-MC 717.20(b)	1	22	25	-	48	2,800

TOTAL=20,300

Under Section 40-10-20(8) of the Act:

(8) Any operator who fails to correct a violation for which a citation has been issued under subsection 40-10-20(1) within the period permitted for its correction (which period shall not end until the entry of a final order by the Board, in the case of any review proceedings initiated by the operator in which the Board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer

irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation), shall be assessed a civil penalty of not less than \$750.00 for each day during which the failure or violation continues.

And Part UMC 845.15(b) of the Permanent Program:

(b) Whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order, a civil penalty of not less than \$750.00 shall be assessed for each day during which such failure continues, except that, if the person to whom the notice or order was issued initiates review proceedings with respect to the violation, the abatement period shall be exempted as follows:

In reference to Section 40-10-20(8) of the Act and UMC Part 845.15(B) of the Permanent Program the Division hereby proposes the following penalties for failure to abate said violations:

<u>ISSUING AGENCY</u>	<u>VIOLATION #</u>	<u>ABATEMENT DATE</u>	<u>UNABATED</u>	<u>FINE</u>
Federal State	#2 30 CFR 717.17 MC 717.17	July 7, 1980	1	750.00
Federal State	#3 30 CFR 717.17(a) MC 717.17(a)	July 7, 1980	1	750.00
State	#7 MC 717.17(b)(1)(v)	July 7, 1980	8	6,000.00
State	#8 MC 717.20(b)	July 7, 1980	14	10,500.00
TOTAL =				18,000.00

Refer to enclosed Memorandum for descriptions of said violations.

The penalties for violations encountered and subsequent failure to abate and resultant cessation order have been assessed at \$38,300.00. It is the expressed opinion of the Division that the Board adopt the assessment procedures described herein as specifically required by the Act and Promulgated Regulation of the Permanent Program. In reference to penalties assessed solely for violations encountered during the June 5, 1980 inspection the Board may opt to pursue other avenues of assessment due to the newness of actual implementation of the Promulgated Permanent Regulations.

JCH/te

cc: Dan Hanna



OIL, GAS, AND MINING BOARD

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M E M O R A N D U M
* * * * *

TO: Board of Oil, Gas and Mining
FROM: Joseph C. Helfrich, Reclamation Soils Specialist
DATE: July 22, 1980
SUBJECT: Trail Mountain Coal Company
Trail Mountain Coal Mine
ACT/015/009

The attached information has been provided to acquaint you with problems encountered during said inspections of the Fetterolf's Trail Mountain Mine. The sequence of inspections and results of State and federal actions are as follows:

Inspection - 6/8/80
Result - OSC - Refer to 6/11/80 memo, Appendix A
Follow-up Inspection - 7/8/80
Result - State and Federal Cessation Order
Refer to 7/21/80 memo, Appendix A (Cessation Order)
See attached sheets for additional information.

The Division feels that through recommendations the Board, and representatives from Trail Mountain Mine permanent compliance measures can be enacted so as to prevent additional violations at the Trail Mountain Mine. It is also suggested that recommendations be made on the three areas not addressed pending Utah Power and Light's decision on the Cottonwood portal.

JCH/te

June 11, 1980

Inspection Memo
to Coal File:

RE: Trail Mountain Mine
ACT/015/009
The Fetterolf Corporation
Emery County, Utah

The above mentioned operation was given a complete inspection on June 5, 1980 by Joe Helfrich, Mary Kay Stein, and Lee Spencer from the Division; Larry Damrau and Dan Martinez from the Office of Surface Mining. State and federal inspectors were accompanied by Dan Hanna, Safety Director for the Trail Mountain Mine.

After a thorough inspection of the permit area the following violations were issued:

Office of Surface Mining Violations

Violation #1, Rule 30 CFR Section 717.14(c) - Failure to dispose of waste materials in an approved manner.

Violation #2, Rule 30 CFR Section 717.17 - Failure to minimize disturbance of the prevailing hydrologic balance.

Violation #3, Rule 30 CFR Section 717.17(a) - Failure to pass surface drainage from the disturbed area through sedimentation ponds.

Violation #4, Rule 30 CFR Section 717.17(j)(2)(i) - Fording a stream.

Violation #5, Rule 30 CFR Section 717.17(j)(1) - Failure to maintain access and haul roads so as to prevent additional contributions of suspended solids to stream flow.

State Violations

<u>Previous Citation</u>	<u>State Violation</u>
N/A	Violation #1, Rule MC 717.14(e) - Failure to dispose of waste material in an approved manner.
2/5/80	Violation #2, Rule MC 717.17 - Failure to minimize disturbance of the prevailing hydrologic balance.
6/6/79 2/5/80	Violation #3, Rule MC 717.17(a) - Failure to pass runoff in disturbed area through a sedimentation pond.
N/A	Violation #4, Rule MC 717.17(j)(1) - Stream channel used as a ford.
2/5/80 2/22/79	Violation #5, Rule MC 717.17(j) - Failure to maintain roads and associated facilities so as to prevent additional contributions of suspended solids to the stream flow or runoff outside the permit area.
2/22/79	Violation #6, Rule MC 717.11 - Failure to have a copy of the mining and reclamation plan at or near the mine site.
2/22/79	Violation #7, Rule MC 717.17(b)(1)(v) - Failure to report water monitoring data as required by the Regulatory Authority.
2/22/79	Violation #8, Rule MC 717.20(b) - Failure to revegetate areas that are no longer used for mining.

Portion of the operation to which the notice applies and abatement measures required:

1. Portion: Industrial mine waste materials deposited on both sides of the north access road onto the mine site. Abatement measure: Remove waste material and dispose of in an approved manner. Abatement time: No later than July 7, 1980.

2. Portion: Surface drainage from upper portal area, water tank area, and sediment pond area. Abatement measure: Control surface drainage to minimize erosion and sedimentation. Abatement time: No later than July 7, 1980.

Inspection Memo
to Coal File
ACT/015/009
June 11, 1980
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3. Portion: North access across Cottonwood Creek (parking area). Drainage escaping from drainage ditch at the south access across Cottonwood Creek.
Abatement measure: Pass all surface drainage from the disturbed area through the sedimentation control structures. Abatement time: No later than July 7, 1980.
4. Portion: Two areas in Cottonwood Creek, below the mine site, at which the end loader can enter the creek to obtain water for road dust suppression.
Abatement measure: Do not enter Cottonwood Creek with mining vehicles.
Abatement time: Immediately as of 12:00 noon, June 5, 1980.
5. Portion: Outside areas of haul road berm where materials from maintenance activities have been deposited over the berm and into Cottonwood Creek.
Abatement measure: Conduct maintenance operations in a manner which restricts all material from being deposited on top of the berm and into Cottonwood Creek. Abatement time: Immediately as of 12:00 noon, June 5, 1980.
6. Abatement measure: Retain a copy of the mining and reclamation plan on-site for State and federal inspections.
7. Abatement measure: Report all water monitoring data for both surface and groundwater monitoring program within 60 days from sample collection on a quarterly basis.
8. Abatement measure: Revegetate the outslopes of the existing sediment pond, the downslopes between the stockpile and Cottonwood Creek, the downslopes between the upper access road to the main portal and the stockpile area, and the downslopes between the water storage tank and the bathhouse. Abatement time: July 7, 1980.

Comments

Violations were not issued on the following areas:

1. The refuse pile between the upper portal access road and sediment pond.
2. Adequate sizing, sealing, and dewatering devices for the existing sediment pond.
3. Insolation of two culverts, one at each access point from the existing Forest Service road to the Trail Mountain Mine do adequately contain runoff as required by the Regulatory Authority.

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to Coal File
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June 11, 1980
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In the event Utah Power and Light decides to continue activity at the Cottonwood portal area, the above mentioned areas will be addressed as follows:

1. The refuse material may be used as fill for construction of surface facilities at the Cottonwood portal area.
2. Utah Power and Light will construct a sediment pond of adequate size to contain runoff from both the Cottonwood portal area and the Trail Mountain Mine area.
3. Utah Power and Light would upgrade the existing access road eliminating the existing inadequate problem associated with the Trail Mountain Mine.

In the event Utah Power and Light decides to withdraw from the Cottonwood portal area Trail Mountain Coal Company will then be directed by the Division to address the three above mentioned problem areas for compliance under the Interim Regulatory Program.

As a result of the reoccurring violations encountered during this inspection representatives from the Trail Mountain Coal Company will be issued an order to show cause before the Board.

JOSEPH C. HELFRICH
RECLAMATION SOILS SPECIALIST

JCH/te

cc: Murray Smith, O.S.M.

Note: For statistics see Gordon Creek memo date 6/16/80.

July 2, 1980

Inspection Memo
to Coal File:

RE: The Fetterolf Group
Trail Mountain Mine
ACT/015/009
Emery County, Utah

APPENDIX A
Violation Status - State Inspection
Dated February 22, 1979

Violation #1, Rule MC 717.11 - A copy of the mining and reclamation plan including the hydrologic monitoring plan was not on or near the site.

Violation #2, Rule MC 717.12 - Sign showing the name, business address, telephone number and permit numbers were not displayed at the access points to the county road.

Violation #3, Rule MC 717.15 - Spoil material has been disposed of in an unapproved site. The spoil was not disposed of in an engineered manner; it was not properly compacted; and it was not certified by a professional registered engineer.

Violation #4, Rule MC 717.17(a) - Snowmelt runoff from all of the disturbed area was contained within the sediment pond. However, the pond has not been properly engineered, constructed nor approved. Specifically, it is unknown if the pond capacity meets volume and discharge requirements. The proper spillway system has not been installed. Surface water monitoring has not been initiated and an N.P.D.E.S. discharge permit has not been obtained for the pond. The outside slopes of the pond, diversion and berm have not been seeded. The sediment disposal plan has not been submitted.

a. As the pond is not properly engineered, the possibility of structural failure exists and thereby creating an eminent environmental hazard.

b. There is not surface water monitoring plan in effect.

c. The diversion berm seems to adequately channel runoff to the sediment pond. However, the areas where roads cross the creek need better drainage control. The entire outslope of the berm adjacent to the creek needs to be revegetated. The culvert has not been installed so as to channel water from the canyon near the portal to Cottonwood Creek.

Inspection Memo
to Coal File
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d. Possible discharges in the sediment pond outlet are not controled so as to reduce erosion and sedimentation.

e. There is not groundwater monitoring program in effect.

Violation #5, Rule MC 717.20 - Disturbed areas that are not continually needed for mining should be revegetated. An example is the outside slope of the berm and pad adjacent to Cottonwood Creek.

State and Federal Inspection
Dated June 6 & 7, 1979

Violation #1, Rule 30 CFR, Section 714.14 - Failure to cover coal and acid-forming, toxic-forming, combustibile and other waste materials.

Violation #2, Rule 30 CFR, Section 717.12 - Failure to post or posting inadequate signs.

Violation #3, Rule 30 CFR, Section 717.17 - Failure to pass surface drainage from the disturbed area through sedimentation ponds.

Division Directive
September 24, 1979

The Division is presently reviewing Utah Power and Light's proposal. Until a final decision is reached, the Division hereby directs The Fetterolf Group to do the following work on the existing pond:

1. Install a manually operated de-watering devise to be located 4 feet above the present sediment storage level;
2. Install an emergency overflow spillway capable of passing peakflow from the 25-year runoff event;
3. Riprap the areas of discharge for these structures;
4. Apply for an N.P.D.E.S. permit.

This action is to reduce the possibility of failure of the pond until the new pond proposed by Utah Power and Light is constructed. These abatement measures were signed by Ronald W. Daniels.

Inspection Memo
to Coal File
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Inspection Memo to Coal File
February 19, 1980
Trail Mountain Coal Company
ACT/015/009

The Trail Mountain Coal Mine was inspected by Joe Helfrich and Mike Thompson on the afternoon of February 5 & 6, 1980. While inspecting the Cottonwood Portal area of Utah Power and Light the inspectors noted that a small percentage of surface runoff from the disturbed area resulting from the melting of snowpeak was not being diverted into the sediment pond. Specifically, approximately 1/2 to 1 gallon per minute of runoff was flowing across the upper crossing of Cottonwood Creek and thence down the public road and finally into the Creek. A small amount of runoff was directly contributing sediment to the Creek and also was causing the road to be excessively muddy. Traffic on the road caused the road to remain muddy and probably causing additional contribution of sediment to the Creek.

Mr. Tom Rice of Trail Mountain Coal Company was immediately contacted and he very promptly had the problem corrected. In addition, the entire runoff diversion system was reworked. As Mr. Rice acted expediently and cooperatively, the violation was not issued.

The inspectors returned on the afternoon of February 6, 1980, to do a complete walkover of the property. Upon entering the property the inspectors noted a miner maintaining the diversion system.

The inspectors also noted that a submersible pump had been installed in the Cottonwood Creek to provide water to the storage tank on the hillside above the bathhouse. The Division must check with the State Engineer to be sure that this water is appropriated. Mr. Rice was told that the overflow must be extended to the Creek to reduce erosion.

Runoff was also observed flowing over the nearly verticle hillside adjacent to the coal stockpile which was eroding the hillside although the runoff flowed to the sediment pond, Mr. Rice was informed that runoff control was required in order to reduce the loss of soil in the permit area.

State and Federal Inspection
February 22, 1980

Violation #1, Rule 30 CFR, Section 717.17(j)(1) and P.L. 95-87, Section 515(b)(10)(B)(i) - Failure to prevent additional contributions of suspended solids to streamflow or to runoff outside the permit area. Portion of the operation to which the notice applies - Surface facilities immediately adjacent to an access road passing over Cottonwood Creek.

JOSEPH C. HELFRICH
RECLAMATION SOILS SPECIALIST