

January 31, 1985

TO: Coal File, Inspection and Enforcement Folder #7
FROM: Sandy Pruitt, Mining Field Specialist *SP*
RE: CO #C85-4-1-1, Diamond Shamrock Coal Unit, Trail Mountain Mine, ACT/015/009, Folder #7, Emery County, Utah

I find it necessary to respond to Joe Fielder's January 14, 1985 letter, regarding NOV #N84-2-25-1 and the resultant Failure to Abate CO #C85-4-1-1, to more accurately represent the circumstances surrounding these enforcement actions.

As noted, the pipeline to Cottonwood Creek was first installed in October. Plans for the installation were not submitted to DOGM until November 28, 1984. Prior to that, during an inspection on November 8, 1984, the pipeline to Cottonwood Creek was disconnected from the line to the mine, by my request, to forestall any mine discharges into Cottonwood Creek without DOGM approval. The pipe remained disconnected until sometime prior to my inspection on December 20, 1984. On December 20, the pipeline to Cottonwood Creek was reconnected and mine water was being discharged into Cottonwood Creek without DOGM approval. NOV #N84-2-25-1 was warranted by this action. Further, Trail Mountain Coal Company was negligent having received prior warning not to discharge until DOGM approval was obtained.

I had made an agreement with Trail Mountain Coal Company, that the pipeline to Cottonwood Creek could remain installed, although it was not permitted, if it were disconnected from the line to the mine so that no mine discharge to the creek could occur. Trail Mountain did not uphold this agreement. That is why I required that the pipeline be disconnected and stored in the material storage yard.

I erred in calling the pipeline to Cottonwood Creek the "pipe" to Cottonwood Creek. But, I recall explaining to Joe Fielder that since the pipe was simply disconnected before, I could not trust that it would not be reconnected again, therefore, it should be stored in the material storage yard. My intent was to have the entire pipeline removed and stored in the material storage yard until DOGM approval was obtained so that it would be more difficult for Trail Mountain Coal Company to discharge into Cottonwood Creek without approval. This is more clearly reported in my December 27, 1984 inspection memo. Also, Mr. Fielder agreed to a 7 day abatement timeframe so that we could determine if DOGM approval would be granted in the near future so that Trail Mountain would not have to dismantle the structure and then immediately reinstall it upon approval. I was not concerned about such a simple disconnection

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such as that done within one-half hour during my November 8, 1984 inspection.

I had several discussions with Allen Childs while the Failure to Abate CO was in effect, and the misunderstanding discussed in Joe Fielder's January 14 letter, was never discussed. In fact, the first response on January 10, was that, due to Mr. Fielder's misunderstanding, 300 feet of pipe in the mine had been dismantled on January 2, 1985 (after the abatement deadline). When I pointed out that the NOV clearly stated that the pipe "to Cottonwood Creek" was to be dismantled, and asked where the pipe from the mine was stored, Allen Childs reported that Mr. Fielder said that some PVC pipe in the mine had broke due to ice. So, apparently, no pipe was dismantled and stored in the material storage yard as required. By this report, it appears that there was no question, then, that some pipe was to be dismantled. Why wasn't the misunderstanding described in Mr. Fielder's January 14th letter brought to my attention then, or brought up to Dave Lof while Joe Fielder discussed the CO and abatement requirements on January 11, 1985?

Prior to his first inspection, I had explained the required remedial action to Dave Lof. I described it as a simple abatement action, either the pipe was in place or it wasn't. Joe Fielder's contention that Mr. Lof's flagrant use of judgement and authority was uncalled for in issuing the CO, since this was clearly a misunderstanding of the NOV is unwarranted because the misunderstanding he now describes was never brought up for Mr. Lof's or my consideration. Dave Lof had also received the support of Joe Helfrich, Field Supervisor, prior to issuing the CO.

I am surprised that someone at the Trail Mountain Mine reconnected the discharge pipe and turned the pumps on to discharge into Cottonwood Creek without Joe Fielder's knowledge, after Trail Mountain had received warnings that this would be in violation. In retrospect, now, I am sorry I did not require that the pipeline be totally disconnected in November and that I trusted that there would be no discharge into Cottonwood Creek until DOGM approved the plans, because I was disappointed. Mr. Fielder's letter has been forwarded to the Assessment Officers for their consideration.

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cc: Joe Fielder, Trail Mountain Coal Co.
Allen Childs, Trail Mountain Coal Co.
Dianne Nielsen
Ron Daniels
Joe Helfrich
Dave Lof
Lorin Nielsen
Mary Ann Wright

Encl.
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