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LBB

# United States Department of the Interior

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
SUITE 310  
625 SILVER AVENUE, S.W.  
ALBUQUERQUE, NEW MEXICO 87102



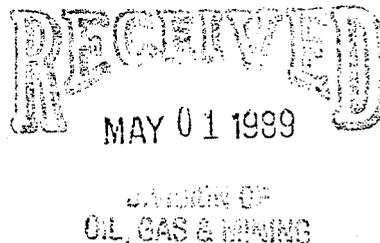
In Reply Refer To:

APR 25 1989

4480  
INE

Permit: 015/015  
Mine Name: Emery Deep

Mr. Lowell Braxton, Administrator  
Division of Oil, Gas and Mining  
Department of Natural Resources  
3 Triad Center, Suite 350  
355 West North Temple  
Salt Lake City, UT 84180-1203



Dear Mr. Braxton:

Federal Ten-Day Notice 89-02-107-3(1 and 3) is being issued for violations that likely existed at the time of the last State complete inspection (LSCI). Specific details are as follows:

Date of Federal Inspection: 04-19-89; Date of LSCI: 03-07-89

The determination that the State did not cite the violations is based on one or more of the following reasons:

The condition was identified in a State inspection report but no State enforcement action was taken.

Design criteria or required certification has not been met for a structure in existence as of the last complete inspection (sediment pond, excess spoil fill, etc.)

Necessary controls that were required at the time of the last complete State inspection have not been established (diversion ditches, sediment ponds, top soil protection, signs and markers, etc.)

Site conditions indicate that the violations noted had been in existence at the time of, or prior to, the last complete State inspection.

Other (Give explanation).

Mr. Lowell Braxton

2

Indicate below the Division's reason(s) for not citing the alleged violation(s):

- Not a violation #1 of 3
- Precluded by State policy
- Not included under State program
- Warning given in Lieu of a Citation
- Violation not recognized (missed)
- Practice allowed under approved permit
- Too minor to cite
- Working with operator to correct #3 of 3
- Other: \_\_\_\_\_

Signature Lowell P Braxton

Date 5/10-89

Please return your signed and dated response to the Albuquerque Field Office at your earliest convenience.

Sincerely,



Stephen G. Rathbun  
Supervisory Reclamation Specialist

Attachments

United States Department of the Interior  
Office of Surface Mining  
Mine Site Evaluation Inspection Report

For Office Use Only

1a Y Y M M	1b Batch	1c Report
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2. Name of Permittee  
Consolidation Coal

3. Street Address  
P.O. Box 5

4. City  
Emery

5. State  
MT

6. Zip Code  
84522

7. Area Code  
801

8. Telephone Number  
286-2301

9. MSHA Number  
42-00079-

10. Date of Inspection (Y Y M M D D)  
890419

11. State Permit Number  
015/015

12. Name of Mine  
Emery Deep

13. County Code  
015

14. State Code  
MT

15. Strata

16. State Area Office  
01

17. OSM Field Office No.  
02

18. OSM Area Office No.

19. OSM Sample No.  
0107

20. Type of Inspection (Code)  
e

21. Joint Inspection  
Yes No  
X

22. Inspector's ID No.  
107

23. Status

A  01 Type of Permit

B  Mine Status (Code)

C  20 Type of Facility (Code)

D  05180.0 Number of Permitted Acres

E  00040.0 Number of Disturbed Acres

24. Type of Activity (check applicable boxes).

A  Steep Slope

B  Mountain Top Removal

C  Prime Farmlands

D  Alluvial Valley Floors

E  Anthracite

F  Federal Lands

G  Indian Lands

H  Other

25. Performance Standards (Codes)

Instructions: Indicate compliance code. For any standard marked 2 or 3 provide narrative to support this determination.

Standards That Limit the Effects to the Permit Area

- A  2 Distance Prohibitions *state issued NOV*
- B  1 Mining Within Permit Boundaries
- C  1 Signs and Markers
- D  2 Sediment Control Measures *SAE (1)*
- E  2 Design and Certification Requirements--(2) *pond cuts*
- F  1 Effluent Limits
- G  1 Surface Water Monitoring
- H  1 Ground Water Monitoring
- I  1 Blasting Procedures
- J  2 Haul/Access Road Design and Maintenance *Road cuts (3)*
- K  1 Refuse Impoundments
- L  Other: Specify \_\_\_\_\_

Standards That Assure Reclamation Quality and Timeliness

- M  1 Topsoil Handling
- N  1 Backfilling and Grading
- O  1 Following Reclamation Schedule
- P  1 Revegetation Requirements
- Q  1 Disposal of Excess Spoil
- R  1 Handling of Acid or Toxic Materials
- S  1 Highwall Elimination
- T  1 Downslope Spoil Disposal
- U  1 Post Mining Land Use
- V  1 Cessation of Operations: Temporary
- W  Other \_\_\_\_\_

**United States Department of the Interior  
Office of Surface Mining  
Mine Site Evaluation Inspection Report**

26. State Permit Number

27. Date of Inspection  
(Y Y M M D D)

0151015

890419

28. Yes  No  Do mining and reclamation activities on the site comply with the plans in the permit?  
 If no, provide narrative to support this determination.

29. Indicate number of complete and partial inspections conducted by the State to date for this annual review period:

29a.  3 Number of Completes

29b.  6 Number of Partials

30. Indicate number of complete and partial inspections required by the State during this annual review period:

30a.  3 Number of Completes

30b.  6 Number of Partials

31. Has inspection frequency been met?

31a. Yes  No  Completes

31b. Yes  No  Partials

32. FEDERAL ENFORCEMENT INFORMATION. [Enter violation number. Check appropriate box(es)]

Ten-Day Notice No.	Notice of Violation No.	Cessation Order No.	Violation Codes
89-02-107-3			
A <input checked="" type="checkbox"/> Vio #2	<input type="checkbox"/>	<input type="checkbox"/>	Authorizations to Operate
B <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Signs and Markers
C <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Backfilling and Grading
D <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Highwall Elimination
E <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rills and Gullies
F <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Improper Fills
G <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Topsoil Handling
H <input checked="" type="checkbox"/> Vio #1	<input type="checkbox"/>	<input type="checkbox"/>	Sediment Ponds
I <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Effluent Limits
J <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Water Monitoring
K <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Buffer Zones
L <input checked="" type="checkbox"/> Vio #3	<input type="checkbox"/>	<input type="checkbox"/>	Roads
M <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dams
N <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Blasting
O <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Revegetation
P <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Spoil on the Downslope
Q <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mining Without Permit
R <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Exceeding Permit Limits
S <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Distance Prohibitions
T <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Toxic Materials
U <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other Violations

33. Name of Authorized Representative (print or type)

Rade H. Orell

Signature of Authorized Representative

Signature of Reviewing Official

Date

4-25-89

Date

4-26-89

34. Administrative Information

a  07.0 Permit Review (Hours)

b  06.0 Travel Time (Hours)

c  10.0 Inspection Time (Hours)

d  08.0 Report Writing Time (Hours)

Consolidation Coal Company  
P.O. Box 5  
Emery, Utah 84522

Emery Deep  
Utah Permit #015/015

Oversight Inspection  
April 18 and 19, 1989

Participants:

Rade H. Orell, Office of Surface Mining Reclamation and Enforcement (OSMRE), Daron Haddock, Utah Division of Oil, Gas and Mining (DOG M), Ron Thompson and Chris Jones, Consolidation Coal Company (operator's representative).

Mine Site Evaluation Inspection Report:

The Mine Site Evaluation Inspection Report form has been completed to reflect the oversight inspection. The inspection resulted in the issuance of a three part Ten-Day Notice (TDN) by OSMRE and a Notice of Violation by DOGM. Each part of TDN 89-02-107-3 is reflected by the number 2 at performance standard codes D, Sediment Control Measures, E, Design and Certification Requirements-Sediment Control and J, Haul/Access Road Design and Maintenance. The DOGM NOV is reflected by the number 2 at performance standard code A, Distance Prohibitions. Each is explained in greater detail later in this report. Each issue that is the subject of a TDN was reviewed by OSMRE supervisory staff and the decision to issue the three part TDN was rendered by same. The TDN was issued via certified mail from the office on April 26, 1989.

Introduction:

The inspection commenced the late morning of April 18 and terminated the afternoon of April 19. The weather was clear to cloudy and warm. Ground conditions were dry. A Pentax IQ Zoom camera was used to photograph areas of interest. I provided my credentials to the operator's representative at the beginning of the inspection. The inspection included a records review and field inspection. I also reviewed records in the offices of DOGM in Salt Lake City.

Records Review:

The inspection commenced with the records review. The records we

reviewed included the NPDES permit, NPDES discharge monitoring reports, surface and ground water monitoring reports for 1988, sediment pond quarterly inspection reports, sediment pond As-Built certifications, temporary coal waste pile certifications, subsidence monitoring and certificate of liability.

In the case of the 1988 water monitoring it was difficult to determine the exact requirements of the plan. There are a number of tables and parameters list that have been revised. Some parts of the lists are a matter of current arbitration between DOGM and the operator. There is also a question that DOGM has approved the parameters list. Frequency of monitoring is also being deliberated.

The pond inspection were also a matter of discussion. DOGM has a published guideline regarding inspection of ponds. It was not apparent that the operator is following the guideline. The method being used to record the inspections is marginal. While records exist to indicate the ponds are being inspected they do not specifically mention each pond. For example, the record indicates "All ponds are ok". The DOGM representative advised the operator's representative to consult the guideline and begin recording the inspections accordingly.

We discussed haul road certifications. The operator's representative as well as DOGM representatives indicated that the mine does not include haul roads. The operator contends that the roads are actually part of the pad and do not qualify as haul roads. The inspection indicated there are two sections of road that appear to qualify as haul roads. Coal is stockpiled at two locations that could be construed to be outside the pad area. One is located across a perennial stream and includes approximately 500 feet of road. Coal is hauled to the stockpile via a truck(s) and end-dumped. The other is a coal stockpile that is located at the entrance to the mine. The road is approximately 1000 feet in length. Coal is hauled to this site via truck and end-dumped. I used a Consolidation Coal Company map entitled General Site Drainage Plan, 1 inch = 100 feet, Revised 4/18/88 to estimate the distances. The Utah regulations at UMC 700.5, 784.24 and 817.150 describe the criteria that are applied to haul roads. TDN 89-02-107-3(3) was issued via certified mail from the office on April 26, 1989. The TDN addresses failure to certify the road as a haul road however, if the decision by DOGM requires the road to be certified it may also necessitate evaluating the structure to ensure that it complies with the appropriate parts of the regulations.

In the case of pond certification we were not able to locate the documents that pertain to ponds two and three. The previous oversight inspection as well as the DOGM representative indicated that the certifications have been reviewed. Therefore, TDN 89-02-107(2) was issued from the office on April 26, 1989. The TDN cites UMC 840.14(b) as the regulation believed to have been violated.

Field Inspection:

The field inspection included observations of the facilities located in the area of the pad as well as the outlying structures.

**Pad Facilities** - The pad facilities included the coal stockpiles, sediment ponds, temporary coal waste pile, main intake portal, fan portal, coal processing area, and the berms along the stream buffer zones. The roads described above are included as part of the pad for the purpose of this report although they may constitute separate structures in terms of the haul road requirements.

In addition to the haul road situation described above the inspection of the pad resulted in the issuance of an NOV by DOGM. The NOV was issued for the operator's failure to prevent to the extent possible disturbance to the stream buffer zone. In the area of the main intake portal we observed a substantial amount of wind blown coal fines on the outside of berm that separates the perennial stream from the disturbance. We discussed the problem in terms of how long it has existed. We agreed that the problem existed at the time of the last state complete inspection (March 7, 1989).

**Outlying Facilities** - The outlying facilities for the purposes of this report include the various borehole pump sites, two borehole pump containment ponds, water tank, fire suppression wells, topsoil and subsoil stockpiles, coal stockpile, substation, water tank, lagoon and sediment pond (structures 4 and 5 respectively).

The inspection and records review relative to borehole 4B3 indicated that DOGM approved a Small Area Exemption for the site. The approved plan is reflected by a revision to the mining and reclamation plan. It indicates that sediment control will be provided by berms and catch basins. The inspection indicated that the disturbance includes a pad, pipeline corridor, containment pond and topsoil and subsoil stockpiles. The inspection indicated that berms are in place on the top of the pad but not on the outslope, controls do not exist at the pipeline corridor and while toe berms are in place on the topsoil and subsoil stockpiles they have not been included in the SAE. Therefore, TDN 89-02-107-3(1) was issued from the office on April 26, 1989. The TDN cites UMC 817.42(a) as the regulation believed to have been violated. The TDN is being issued for the operator's failure to pass disturbed area drainage through a sediment pond. In that DOGM approved an SAE for the site and failed to include all the disturbed areas it is likely that the sites were overlooked and that the SAE will be amended accordingly. The operator's representative also confirmed that the SAE for 4B3 applied to the borehole pad and not the outslope, pipeline corridor or soil stockpiles.

We also inspected a topsoil stockpile in the vicinity of the Mine Water Pond (pond 1). The inspection of the stockpile and the area to the north indicated that the surface effects of subsidence are evident. We observed four parallel cracks running north to south on the stockpile. The eastern most crack extends approximately 150 to the north of the stockpile into the undisturbed area. We measured a

hole approximately 3 feet deep and 12 inches to 18 inches across on the toe of the stockpile on the inside of the toe berm. The hole is part of the eastern most crack. The DOGM representative indicated that the features were evident at the time the mid-term review was being conducted last fall/winter. The approved subsidence monitoring plan addresses mitigation and monitoring of specific sites and structures. I could not locate information which describes mitigation of the effects in other than the sites and structures listed. The subsidence plan should be revised to address the mitigation of these kinds of surface effects. The operator is also advised to ensure that loss of topsoil due to subsidence does not occur. The Utah regulation at UMC 817.23 indicate that topsoil must be stockpiled on a stable surface within the permit area.

#### Close-Out Meeting:

The close-out meeting was a reiteration of the inspection. We advised the operator's representatives of the areas of concern and referenced the situations that may result in TDNs or a DOGM NOV. I also advised the operator of the pending haul road issue. They were already aware of the possibility that the approximate 2 miles of road to the state highway may need to be permitted. They advised me that they have been provided with a draft copy of a letter DOGM intends to submit to OSMRE advising the manner in which roads throughout the state that meet the criteria will be addressed.

I also advised the representatives of the scenario regarding the issuance of TDNs (decision to be made by management in the Albuquerque Field Office).