



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:

RECEIVED

March 19, 1991

MAR 21 1991

DIVISION OF
OIL GAS & MINING

Permit: ACT-015-015
Mine Name: Emery Deep

Mr. Lowell P. Braxton
Associate Director, Mining
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

Dear Mr. Braxton:

Federal Ten-Day Notice 91-02-244-4 is being issued for a violation that likely existed at the time of the last State complete inspection (LSCI). Specific details are as follows:

Date of Federal Inspection: 03/06/91; Date of LSCI: 12/05/90

The determination that the State did not cite the violation 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 State complete inspection (sediment pond, excess spoil fill, etc.)

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

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

Other (Give explanation).

Mr. Lowell P. Braxton

2

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

- Not a violation *TOW withdrawn*
- 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
- Other: _____

Signature *Lowell P. Braxton*

Date *April 5*

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

Sincerely,



Stephen G. Rathbun, Chief
Inspection and Enforcement Branch

Enclosure

Orig: mine file
CC - AFD: S. Rathbun



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Mr. Lowell P. Braxton
Associate Director, Mining
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

Dear Mr. Braxton:

The enclosed Office of Surface Mining Reclamation and Enforcement (OSM) inspection report identifies a violation that is considered to have existed at the time of the last State complete inspection (LSCI) but had not been cited.

Date of Federal Inspection: 03/06/91; Date of LSCI: 12/05/90

The determination that the State did not cite the violation 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 State complete inspection (sediment pond, excess spoil fill, etc.).

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

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

Other (give explanation).

Mr. Lowell P. Braxton

2

Although the violation was cited by the State, or was abated during a joint inspection, OSM believes that the violation was evident during the last State complete inspection.

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

Not a violation

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

Other: _____

Signature Lowell P. Braxton

Date 4-5-91

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

Sincerely,



Stephen G. Rathbun, Chief
Inspection and Enforcement Branch

Enclosure

Lowell:

TDN 91-02-244-4 On page 2, I would mark "Not a violation". If you wish to add supportive reasoning, you may want to reference the recent Washington decision regarding the SUFCO TDN. I think that is appropriate here as a reason for stating that this is not a violation.

Letter 2, page 2, I would put an X in the slot that indicates "Violation not recognized (missed)". You probably don't need to provide any additional language, but you may wish to know the reasoning Daron and I used to arrive at this decision. The violation that Mr. Demczak cited, "not complying with requirements of the State program" noted in the letter of March 20, 1989, was in existence during the last three State complete inspections.

RECEIVED

MAR 21 1991

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

DIVISION OF
OIL GAS & MINING

For Office Use Only

Y Y M M

1b
Batch

1c
Report

2. Name of Permittee

Consolidation Coal

3. Street Address

Po Box 527

4. City

Emeru

5. State

UT

6. Zip Code

84502

7. Area Code

801

8. Telephone Number

286-2301

9. MSHA Number

42-00077-

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

910306

11. State Permit Number

ACT 015/015

12. Name of Mine

Emeru Pump

13. County Code

015

14. State Code

UT

15. Strata

16. State Area Office

17. OSM Field Office No.

02

18. OSM Area Office No.

19. OSM Sample No.

0093

20. Type of Inspection (Code)

C

21. Joint Inspection Yes No

X

22. Inspector's ID No.

244

23. Status

A 01

Type of Permit

B 1

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

E Anthracite

B Mountain Top Removal

F Federal Lands

C Prime Farmlands

G Indian Lands

D Alluvial Valley Floors

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 1 Distance Prohibitions
- B 1 Mining Within Permit Boundaries
- C 1 Signs and Markers
- D 1 Sediment Control Measures
- E 2 Design and Certification Requirements—Sediment Control TDN
- F 1 Effluent Limits
- G 1 Surface Water Monitoring
- H 1 Ground Water Monitoring
- I 3 Blasting Procedures No blasting
- J 1 Haul/Access Road Design and Maintenance
- K 3 Refuse Impoundments coal not washed
- L Other: Specify _____

Standards That Assure Reclamation Quality and Timeliness

- M 2 Topsoil Handling State NOU
- 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 Post Mining Land Use
- V 2 Cessation of Operations: Temporary See narrative
- W Other _____

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

26. State Permit Number: ACT 01E/01E

27. Date of Inspection (Y Y M M D D): 91 03 06

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. 0 2 Number of Completes

29b. 0 2 Number of Partials *as of Dec 5 1990*

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

30a. 0 2 Number of Completes

30b. 0 2 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
<u>71-22-4</u>	<u>71-22-4</u>	<u>-</u>	
A <input type="checkbox"/>	<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 type="checkbox"/>	<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 type="checkbox"/>	<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 checked="" type="checkbox"/> <i>demonstrations for small area exemptions</i>	<input type="checkbox"/>	<input type="checkbox"/>	Other Violations

33. Name of Authorized Representative (print or type): Gary Fritz

Signature of Authorized Representative: <u>Gary Fritz</u>	Date: <u>03/12/91</u>	02 0
Signature of Reviewing Official: <u>[Signature]</u>	Date: <u>3/19/91</u>	08 5
		10 0
		02 0

March 5 & 6, 1991

Consolidation Coal Company
PO Box 527
Emery, Utah

Personnel Present During the Inspection:

Dee Bray : Consolidation Coal
Russ Jensen: Consolidation Coal
Steve Demczak: Utah Division of Oil Gas & Mining (DOGGM)
Gary Fritz: Office of Surface Mining/ Albuquerque Field Office #244

Weather and Ground Conditions at the Mine During the Inspection:
Cool and windy with wet areas from recent snowfall, light snow cover

ENFORCEMENT ACTIONS

The State of Utah's Division of Oil Gas & Mining (DOGGM) issued the operator a violation for the failure to comply with the terms and conditions of their permit. They failed to submit annual data for monitoring vegetation on their topsoil piles. They have two topsoil piles on the mine, one was built in 1981 and the other was completed in 1988. They had very little if any vegetation growing on either of the piles. Both of the piles were from areas disturbed for the construction of downhole dewatering pumps that are in the mine. The earlier pile, the one in 1981 had clumps of sagebrush on it but the rest of the stockpiled topsoil was barren. The other pile did not have anything growing on it. Both piles were bermed around the perimeter to contain runoff and soil loss. In addition, the soil on both piles was crusted over which inhibits wind related erosion. There was no apparent erosion noted on the areas from wind and water erosion but the question was raised about the failure of cover on the areas to further reduce soil loss. Holes were noted in and at the foot of the '81 stockpile. They were noted during an earlier oversight inspection (Rade Orell) with the comment that they should be watched, ~~for enlargement~~. I am not sure as to where or how they originated but a couple of them appeared to be slumpages and others *may have* resulted from rodent activity. Topsoil loss through these could be a problem.

The operator said that they had not mulched the topsoil piles and apparently seeded one or both of them at least twice over the years. In addition, the earlier constructed pile was in an area that is

grazed on an annual basis. There was no sign of grazing on the pile but I suspect that all of the palatable species of the temporary cover, if it grew in the first place, was quickly eaten. As to whether the DOGM will require the piles to be reseeded, following their findings on this NOV, I cannot say but would comment that if seed regeneration is this much of a problem on the mine, how will it be revegetated when it is reclaimed? I did not take enforcement action for the lack of cover because there was no sign of erosion on either of them, there was no sign of grazing on the one and the berm around the perimeters were intact.

I issued the DOGM a Ten-Day Notice (TDN) #91-02-244-4 TV-1, for the operator's failure to provide adequate design, construction and maintenance plans to ensure compliance with effluent limitations from disturbed areas. Ten sites on the mine were identified in their mine plan as being small area exemptions but there was no requirement for design data to back up the approval there of. In addition, there was no comment about how they were to be constructed or maintained. In addition to these areas, the operator had recently buried pipeline from borehole #3 to their outfall pond. In doing so, they disturbed a 100 foot by 100 yard area to bury the pipe. It did not have drainage control below the area so I was led to believe that it too was a small area exemption. I asked if the area had been planted and mulched. The comment in the field was that it may have been planted but in fact, the area was disced, that was the sum total of drainage control for that area. Their approved plan should be re-evaluated, data added as necessary and updates made accordingly for the small areas not listed.

GENERAL COMMENTS

A couple of items were addressed during the course of the inspection which should be mentioned for future reference. Groundwater monitoring wells, known as "USGS", that are a part of the approved groundwater monitoring plan for the company, #'s 4-1, 3-1 and 2-1, were vandalized. The above ground portion of the plastic pvc pipe as well as the caps for the wells were broken beyond repair. The operator indicated that casing would be restored and caps installed by the end of the week. Mr Demczak was going to followup on the work.

There was a question about the extent of certification on their road system. A short section of road, less than two hundred feet, up to their temporary mine rock disposal area and coal stockpile did not appear to be certified by a registered professional engineer as being built per design. We could not immediately find the certification in the mine plan at the mine but all other roads on the mine were addressed. Either it had been overlooked or was done but could not be found. The decision was made to check further. I have the understanding that it was found or completed by the end of the week, per Mr. Demczak's supervisor in Salt Lake City. Further comments regarding the road should be added; coal is not being mined

and rock is not being put in the disposal area at this time. Maintenance needed for the road as well as traffic through the area ~~through~~ at this time appears to be minimal.

Another question raised during the inspection, was the amount of PCB's on the surface and within out-of-service electrical equipment on the mine. Samples were taken off of three transformers stored in their boneyard and a circuit breaker laying on the eastern side of the old powder magazine. The transformers were labeled as less than 50 ppm of PCB's but there wasn't a label on the switch. I questioned the validity of the labels on the transformers as far as surface appearance because retrofilled transformers are usually steam cleaned on the inside as well as the outside.

The sample will be analyzed. That data will be made available when testing is complete.

The primary spillway dewatering pipe on the boneyard pond was partially filled with dirt. The operator was put on notice by Mr. Demczak to clean it.

The inlet for yard drainage on the second sediment pond in the series below the boneyard appeared as though it was beginning shortcircuit. There was signs of erosion around the outlet end of the pipe in the sediment pond above the outlet. In addition, a couple of small holes were noted in the concrete headwall at the pipe inlet around the exterior of the pipe that may be allowing disturbed area water to trickle down the outside of the pipe into the pond. The operator said that they would repair the headwall.

The mining operation has been declared by the operator to be in temporary cessation. A letter on file at the mine indicated that the DOGM was notified July 11, 1990 that the mine would be in temporary cessation. During the inspection, the comment was made that the company sells coal out of their stockpiled coal to local spot markets. Evidently they sell approximately 700 to 800 tons per month to these companies. This is contrary to their temporary notice to the DOGM, selling coal out of the stockpiles is mining. Inspections on the mine by DOGM will have to be changed from once a quarter to twelve inspections per year.

CLOSING COMMENTS

The mine is being dewatered on a daily basis with records indicating that they are pumping 600,000 gallons per day through two outfalls. Discharges noted during the inspection on eight inch flumes was .85 and .64 ft. from those two points. One of the settling basins for the mine water, pond #6, appeared to have a seep at the foot of the dam. I would make the comment that it needs further investigation to insure that the embankment is not in jeopardy.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
RANDOM SAMPLE MEIR SUPPLEMENT

1. Permittee En Consolidation Coal Co
 2. Permit Number ACT 1015/015
 3. Joint Inspection Y | Y/N 4. Date 03-06-91

5. Days since Last State Complete Inspection (LSCI) 12/5/90-92
 6. Block 25 Categories in NON-COMPLIANCE this RSI 3
 7. Total Violations this RSI 2

8. List (only once) all violations:

- 1) where State enforcement was required and taken during the LSCI;
- 2) recorded in the LSCI report but the State failed to take enforcement;
- 3) observed during this RSI which clearly existed during the LSCI but the State failed to take enforcement; and;
- 4) existing during this RSI which are not already listed under one of the categories above.

LAW	A SPECIFIC STATE REGULATION VIOLATED	B BLOCK 25 CATEGORY	C ABATED (y/n)	D STATE ACTION	E REASON IF UNCITED	F CAUSE	G SERIOUSNESS PEO	H IMPACT	I OSMRE ACTION	J OPTIONAL	K
1.	614 / 301 / 742 / 16 /	E	N	2		L	2	7	2		
	Description: FE Demonstration for small area exemptions										
2.	614 / 301 / 742 / 212 /	M	N	2		4	3	2	1		
	Description:										
3.	/ / / / /										
	Description:										
4.	/ / / / /										
	Description:										
5.	/ / / / /										
	Description:										
6.	/ / / / /										
	Description:										
7.	/ / / / /										
	Description:										
8.	/ / / / /										
	Description:										
9.	/ / / / /										
	Description:										
10.	/ / / / /										
	Description:										

- STATE ACTION**
- 1) Existed on LSCI, cited
 - 2) Existed on LSCI, not cited
 - 3) Cited Prior to LSCI, Abatement Pending
 - 4) Occurred since LSCI

- STATE'S REASON FOR NOT CITING VIOLATION (AFTER DISCUSSION WITH THE STATE)**
- 1) Not a Violation
 - 2) Precluded by State Policy
 - 3) Not included under State Program
 - 4) Warning given in lieu of a Citation
 - 5) Violation not recognized (missed)
 - 6) Practice allowed under approved Permit
 - 7) Too minor to cite
 - 8) Working with Operator to Correct
 - 9) Other:

- CAUSES**
- 1) Permit Defect
 - 2) Unusual Weather Conditions
 - 3) Unofficial Waiver
 - 4) Operator Negligence
 - 5) Other:

- PPOBABILITY OF EVENT OCCURRENCE**
- 1) None or Unlikely
 - 2) Likely
 - 3) Occurred

- IMPACT**
- Damage Remains Within the Permit Area
- 1) None or Minor
 - 2) Moderate
 - 3) Considerable
- Damage Extends Beyond the Permit Area
- 4) None or Minor
 - 5) Moderate
 - 6) Considerable
- Obstruction to Enforcement
- 7) None or Minor
 - 8) Moderate

- OSMRE ACTION**
- 1) Deferred to State Action
 - 2) TDW issued
 - 3) IH-CD issued
 - 4) Previously Cited, Abatement Pending
 - 5) Abated during or before OSMRE inspection