

0020



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

Michael O. Leavitt
Governor
Kathleen Clarke
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1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

NO. N02-39-2-1

RECEIVED

OCT 28 2002

Div. OF OIL, GAS & MINING

Date of Service
10-25-02

To the following Permittee or Operator:

Name: Consolidation Coal Company
Mine Name: Emery Deep Mine Type: Underground
County: Emery State: UT Telephone Number: (618) 625-6847
Business Address: P.O. Box 566, Sesser Illinois 62884/ P.O. Box 527, Emery Utah 84522
Permit Number: C/015/015 Ownership Category: Mixed
Date of Inspection: 10/22/2002 Time of Inspection: 11:00 a.m. - 12:45 p.m.
Operator Name (if other than permittee):
Operator 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, and Mining has conducted an inspection of above mine on above date and has found violation(s) of the act, regulation 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 [X] 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, and 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.

Date of Service: 10/25/2002

Time of Service: 5:00 p.m.

Tim Kirschbaum
Permittee/Operator representative

Environmental Engineer
Title

Mailed From DOGM Price Office
Signature

Stephen J. Demczak
Division of Oil, Gas, and Mining Representative

Environmental Scientist
Title

Signature (Handwritten: Stephen J. Demczak)

#39
Identification Number

SEE REVERSE SIDE

CERTIFIED RETURN RECEIPT #7001 0320 0005 4591 7992

CC: DOGM
OPERATOR
OSM
NOV FILE

IMPORTANT – READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Board of Oil, Gas, and Mining assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the Division of Oil, Gas, and Mining will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be finalized unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed a minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring you to cease surface coal mining operation or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

An informal public hearing may be held at or near the mine site if this notice requires cessation of mining, expressly or in practical effect. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice requires cessation of mining.

Please review this finding and inform the authorized representative if you disagree with it. (See Utah Admin. R. 645-400-350 et seq.)

If this notice requires cessation of mining, it will expire within 30 days from date you are notified unless an informal public hearing is held or waived, or the condition, practice, or violation is abated within the 30-day period. You will be notified of date, time, and location of hearing.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice or assessment before the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in Utah Admin. R. 645-401-800 et seq.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult *Utah Code Annotated* Section 40-10-20, 21, 22, and 23, Utah Admin. R. 645-400-300 et seq. and R. 645-401 et seq. or contact the Division of Oil, Gas, and Mining at (801) 538-5340.

NOTICE OF VIOLATION NO. N02-39-2-1

Violation No. 1 of 1

Nature of violation:

Failure to protect vegetation and topsoil in the undisturbed area. Two cars and one truck were parked on the undisturbed area in which topsoil and vegetation has never been removed. Furthermore, the area has been driven over by many vehicles.

Provisions of act, regulations, or permit violated:

R645-301-351
R645-301-330 et. seq.
R645-301-232.600

Portion of operation to which notice applies:

The southwest portion of the 4th East Portals. This is the same exact area that NOV #02-39-1-2, 1 of 2, was issued on 09/13/2002 and was terminated on 07/17/2002.

Remedial action required (including any interim steps):

- 1) The permittee must remove all vehicles from the undisturbed area immediately.
 - 2) The permittee must submit one of the following plans to the Division:
 - a) The permittee must submit a topsoil and vegetation removal plan for this undisturbed area, and the relocation and a design of the berm to prevent sediment from entering the undisturbed diversion.
- OR
- b) The permittee must submit a reclamation plan for this undisturbed area giving information on method of seeding, seed mix, and the time scheduled for seeding.

Abatement time (including interim steps):

- 1) The Division must receive one of the above plans from the permittee by November 8, 2002.
- 2) Upon approval from the Division, the plan must be implemented and completed within 7 consecutive days.

CC: DOGM
OPERATOR
OSM
NOV FILE

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