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Citation for Non-Compliance
Utah Coal Regulatory Program
 1594 West North Temple, Salt Lake City, UT 84114
 Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: 10005
Permit Number: C0150015
Date Issued: 06/14/2007

NOTICE OF VIOLATION **CESSATION ORDER (CO)** **FAILURE TO ABATE CO**

Permittee Name: Consolidation Coal Company	Inspector Number and ID: 49 KHOUSKEE
Mine Name: Emery Deep Mine	Date and Time of Inspection: 06/14/2007 7:30 am
Certified Return Receipt Number: Hand Delivered	Date and Time of Service: 06/14/2007 7:30 am

Nature of condition, practice, or violation:
 Failure to follow the approved Mining and Reclamation Plan (MRP) and regulations for Refuse Piles/Waste Disposal.

Provisions of Act, regulations, or permit violated:
 R645-746.110 R645-528.320
 R645-746.120 R645-528.322
 R645-746.210
 R645-746.212

This order requires Cessation of ALL mining activities. (Check box if appropriate.)

<input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.	<input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.
<input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.	<input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.

This order requires Cessation of PORTION(S) of mining activities.

Mining activities to be ceased immediately: Yes No **Abatement Times (if applicable).**

Action(s) required: Yes No
 Do one of the following:
 (1) Place the refuse/waste disposal in the approved permanent disposal site, in accordance with the approved MRP and current regulations for refuse disposal and drainage. Update MRP as necessary to comply with regulations.
 (2) Design and receive approvals (Division/MSHA) for a new permanent refuse pile/waste disposal that meets current regulations for disposal and drainage. Place existing and future refuse/waste material in approved facility.
 By August 13, 2007.

JOHN A. GEFFERTH
 (Print) Permittee Representative
for J. Geffert *[Signature]* 6-14-07
 Permittee Representative's Signature - Date

KARL HOUSKEEPER
 (Print) DOGM Representative
[Signature] 6/14/07
 DOGM Representative's Signature - Date

SEE REVERSE SIDE Of This Form For Instructions And Additional Information

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Coal Mined Land Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGM) has conducted an inspection and found that a Notice of Violation or Cessation Order must be issued.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. PENALTIES.

Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the cessation order and proposed fine, please submit that to DOGM within **15 days of the date this notice or order is served on you or your agent**. Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, no later than 30 days of the issuance of this notice or order. See Utah Admin. Code R645-401-600 et. seq.

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

Assessment. 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 an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring cessation of surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

On the reverse side of this page, an authorized representative has made a finding as to whether or not this notice requires cessation of mining. If this order or notice requires cessation of mining, expressly or in practical effect, you may request that an informal public hearing be held at or near the mine site. If you wish an informal public hearing be held, please contact an authorized representative from DOGM. See Utah Admin. Code R645-400-350 et seq. Once an informal public hearing is scheduled, you will be notified of the date, time, and location of the hearing.

If this notice requires cessation of mining, it will expire within 30 days from the 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.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may appeal this notice or order to the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of this notice or order. See Utah Admin. Code R645-300-164.300. Please submit the application for hearing 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. Code R645-401-800 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 Ann. § 40-10-20 through 40-10-23 and Utah Admin. Code R645-400-300 et. seq. and R645-401 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.

HINDRANCE TO ENFORCEMENT VIOLATIONS
INSPECTOR'S STATEMENT

Company/Mine: Consolidation Coal Co/Emery Deep Mine
Permit #: C/015/015

NOV # 10005

- A. **HINDRANCE TO ENFORCEMENT:** (Answer for hindrance violations only such as violations concerning record keeping, monitoring, plans and certification).

Describe how violation of this regulation actually hindered enforcement by DOGM and/or the public and explain the circumstances.

Explanation: Failure to follow the approved Mining and Reclamation Plan (MRP) and regulations for Refuse Piles/Waste Disposal. Information obtained from MSHA and the MRP indicate that the material was only supposed to remain in its current location for a very short time. The reclamation plan in the approved MRP indicates that the material was to be placed in the permanent location and contemporaneous reclamation to occur between the 2nd and 4th quarter of 1991. Neither the current location or the permanent location provide that all diversions comply with the required 100 year 6 hour event.

- B. **DEGREE OF FAULT** (Check the statements which apply to the violation and discuss).

- Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.

Explanation: Indifference or lack of reasonable care. The permittee has been advised on several occasions that a problem existed. The operator indicated their opinion on several occasions that the facilities and location of the refuse material was adequate until final reclamation.

- If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

- Was the operator in violation of any conditions or stipulations of the approved MRP?

Explanation: Refuse material has remained in a temporary location for 18+ years. The refuse material was slated to be moved within 2 years of placement in the temporary location to a permanent location. The required 100-year/6-hour diversion requirement has never been adequately addressed in that time frame for the temporary or permanent locations.

- Has DOGM or OSM cited a same or similar violation of this regulation in the past? If so, give the dates and the type of enforcement action taken.

Explanation: _____

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

Explanation: _____

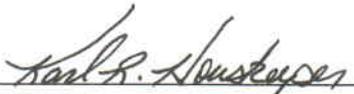
2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: _____

3. Was the submission of plans prior to physical activity required by this NOV / CO? Yes If yes, explain.

Explanation: The required 100-year/6-hour diversions has never been adequately addressed for the temporary or permanent locations. The operator needs to develop a plan for final disposal of the refuse material and make sure it addresses all of the regulations for refuse piles, including adequately designed diversions.

Karl R. Houskeeper
Authorized Representative


Signature

June 18, 2007
Date