

0004



THE ATTORNEY GENERAL
STATE OF UTAH
DAVID L. WILKINSON
ATTORNEY GENERAL

Copy this letter to:
ACT/015/021-NOV File +
catalog #8
ACT/015/025-NOV File +
catalog #8
Joe H., Terri Reid, Rm D.

PAUL M. TINKER
DEPUTY ATTORNEY GENERAL

DALLIN W. JENSEN
Solicitor General

FRANKLYN B. MATHESON
Senior Assistant Attorney General

ROBERT R. WALLACE
Chief Trial Counsel

WILLIAM T. EVANS, CHIEF
Human Resources Division

DONALD S. COLEMAN, CHIEF
Physical Resources Division

STEPHEN G. SCHWENDIMAN, CHIEF
Tax & Business Regulation Division

EARL F. DORIUS, CHIEF
Governmental Affairs Division

PAUL M. WARNER, CHIEF
Litigation Division

April 4, 1984

Carl E. Kingston
53 West Angelo Avenue
P.O. Box 15809
Salt Lake City, Utah 84115

Dear Carl,

Enclosed is the signed copy of the Stipulation for and order of dismissal. Thank you for your cooperation on this matter.

As you know, the Board granted the extension requested by Co-op Mining Company with regard to completing the road work at the Bear Creek Canyon Mine until May 1, 1984. As we discussed in the meeting with the Division technical staff on April 2, the Board would need some basis for any further extension of that deadline. Communications between Co-op and the County in the form of a letter by the County explaining why the road work cannot be completed by May 1 may be sufficient.

On another matter, I have resolved the questions raised in your March 21, 1984 letter to me regarding refunds and hearing dates. Refunds for C83-5-1-4 for the Bear Creek Mine were made in late January, 1984. The Division erroneously refunded all four of the fines imposed rather than 1, 2 and 4 of 4 as should have been done since the underlying NOV 82-5-2-10, 2, 4 and 8 of 10 were dismissed as per Board order. C83-5-1-4, 3 of 4 was issued for failing to abate N82-5-2-10, 7 of 10. The latter NOV was not the subject of an appeal to the Board. The fine for number 3 of 4, \$3,750.00, plus \$135.83 interest paid to you by the Division should be returned to the Division.

With regard to your request for hearings on N83-5-3-1 (Trail Canyon Mine) and C83-5-1-4, the requests were timely and a hearing date should have been set. You are, of

Carl E. Kingston
April 4, 1984
Page 2

course, limited to arguing whether N82-5-2-10, 7 of 10, had actually been abated and therefore C83-5-1-4, 3 of 4 wrongfully issued since N82-5-2-10, 7 of 10 is beyond the appeal date. The appeal on N83-5-3-1 can proceed as is usual.

Under the new Board procedural rules, the Division has been requesting prehearing conferences on all appealed mining violations. It is my intention to proceed in this manner on this matter. I will request such a hearing during the April Board hearing and set the hearing for the violations for May.

If you have any questions or further information on the fines discussed above, I would appreciate hearing from you.

Sincerely,



BARBARA W. ROBERTS
Assistant Attorney General

BWR/gh

Enclosure