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15 February 1992

Joseph C. Helfrich
Assessment Officer
Utah Division of Oil Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

RECEIVED

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DIVISION OF
OIL GAS & MINING

Dear Mr. Helfrich,

Re: Proposed Assessment for State Violations No. N91-40-2-2, Co-Op Mining Co., Bear Canyon Mine, ACT/015/025, Emery County, Utah

As an agent of Co-Op Mining Co. I request that a *fact of violation and assessment conference* to review the violation and proposed penalty be scheduled. The following comments refer to the violations.

FACT of VIOLATION

Violation 1 of 2. A few days following the date of service for the NOV a road dust control pipe broke and clean water flowed down Ditch D-13U and through culvert C-13U. When cleaning up the culvert for abatement, the lower of the two culvert sections was removed but the upper section was left in-place to facilitate access to the adjacent residence. The blockage that did exist in the culvert was from frozen water which was difficult to remove. When the operator removed the lower section of the culvert it was evident that the culvert was only partially filled with sediment and was still capable of controlling the design flow. The two sections of culvert were connected with a bend at the joint making it impossible to see all the way up the culvert and making it appear blocked.

Upon review it was found that a slight swell in ditch D-13U below C-13U was causing water to back up in the culvert. The ditch and culvert were still functional and no violation existed.

Off site sediment loading is not an issue with this control structure as it carries drainage from only a small road area that does not require additional sediment control mitigation.

Violation 2 of 2. No appeal to be presented concerning the fact of violation on part 2.

ASSESSMENT

Violation 1 of 2

II. SERIOUSNESS

A. Event Violations

The control structures C-13U and D-13U were functional at the time the violation was issued and there was no probability of a standard violation of off site sediment loading.

III. NEGLIGENCE

Negligence points are not merited. The operator was given notice from the Division of a potential non-compliance due to the sediment evident at the outlet of culvert C-13U. Although maintenance could have improved the visual evidence of function the culvert was well capable of controlling run off from the tributary drainage area.

IV. GOOD FAITH

Co-Op has cooperated in all aspects during the abatement processes. As noted above the culvert was still functional at the time the violation was issued. The lower section of the culvert was removed to ensure continued operation and drainage improvements have been scheduled to eliminate potential future questions concerning this issue.

Violation 2 of 2

II. SERIOUSNESS

A. Hindrance Violations No review requested.

III. NEGLIGENCE No review requested.

IV. GOOD FAITH

The required mine plan modifications were submitted to the Division for review on 6 January 1991. No corrections or revisions were required for the plates and pages submitted. The Division did request that the completion commitment deadline be moved up and the operator complied with this request.

Please notify me and the *Resident Agent* of Bear Canyon Mine when a conference can be scheduled.

Resident Agent: Mr. Wendell Owen
P.O. Box 1245
Huntington, Utah 84528

Thank you for your cooperation in this matter.

Sincerely,



Kimly C. Mangum, P.E.
Permitting & Compliance Consultant.

cc: Co-Op Mining Co.