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2 June 1992

**RECEIVED**

[JUN 04 1992]

Joseph C. Helfrich  
Assessment Officer  
Utah Division of Oil Gas & Mining  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203DIVISION OF  
OIL GAS & MININGRe: Proposed Assessment for State Violations No. C92-40-1-1, N92-40-9-1, 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 violations and proposed penalty be scheduled. The following comments refer to the violations.

**FTACO No. C92-40-1-1**

Review of *fact of violation* is requested. It is felt that the issuance of this violation was unwarranted. The Division contacted a representative of Co-Op and conveyed concern about information that was not included with the abatement submittal. The required adequate and technical data was submitted to the Division on the same day that this communication was received. The violation was issued and closed following receipt of the abatement requirements. We are aware that the Division has issued extension for abatement under similar circumstances. It is unclear why this non-urgent condition merited such action.

**NOV #N92-40-9-1**

Review of *fact of violation* is requested.

**ASSESSMENT**

- II. SERIOUSNESS
- A. Event violation

The silt fence was placed at the outlet of Culvert C-12U with approval from the Division. See page 3D-5 dated 10/90 and all earlier approved submittal of Appendix 3-D. Division personnel directed Co-Op field workers to move the silt fence down stream and subsequently off the permit area during an on-site inspection. Review of Division Inspection Reports is being made to find if this direction to move the silt fence was recorded. Co-Op acted in good faith when it installed the silt fence in an undisturbed drainage. The field worker acted in good faith when he moved the silt fence downstream at the direction of Division personnel.

The sediment that is described as "off site sediment deposition" was sediment that was captured by the silt fence. Applicable laws and regulations did not require this added sediment control. Environmental harm was reduced with the removal of sediment from this undisturbed drainage. If the silt fence would have remained in-place the benefits of sediment removal from the drainage would have continued. The explanation describing "damage" is not applicable. The positive benefits resulting from placement of this silt fence in the drainage should be considered in this assessment.

III. NEGLIGENCE

- A. The action resulting in the placement of this sediment control structure outside the defined permit area were performed at the direction of Division personnel. Negligence points should be reduced or eliminated.

IV. GOOD FAITH

We request that the final evaluation be made available for review.

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.



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

cc: Co-Op Mining Co.