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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

ACT/015/025
#5

March 18, 1992

TO: Mine File

FROM: Lowell P. Braxton, Associate Director, Mining *LB*

RE: NOV N92-40-4-1, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Emery County, Utah

The above-cited NOV was served in the field March 12, 1992. The nature of the violation is: "For failing to provide cross sections of diversions."

Provisions of Act, regulations, and or permit violated:
"R. 645-301-722 and R. 645-301-722.2."

Portion of the operation to which the notice applies:
"The permit area; specifically all diversions except D-1D, D-2D, and D-7D."

Remedial action required: "Provide cross sections for all drainages (constructed or natural) except those specified above. The cross sections shall satisfy the requirements of R. 645-301-722 and R. 645-301-722.2 as well as all other requirements of the R. 645 regulations for map preparation and certification."

Abatement time: "Submit complete and technically adequate maps as specified under remedial action to the Division no later than 5 p.m., 13 April, 1992."

This memo formally vacates N92-40-4-1, and provides the basis for vacating this alleged violation.

R. 645-301-722 reads: "Cross Sections and Maps" showing:

722.2, "Location of surface water bodies such as streams, lakes, ponds and springs, constructed or natural drains, and irrigation ditches within the proposed permit and adjacent area;"

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Hydrology maps are found in the permit application as Plates 7-1A through 7-1D. Plates 7-1A through 7-1D are maps and cross sections that address the requirements of R. 645-301-722. Characteristics of constructed diversion structures are further enumerated at pages 7-87 and 7-87A of the MRP.

R. 645-400-323 and 400-323.1, require notices of violation to establish the nature of the violation with reasonable specificity. Given the evidence for maps and cross sections in the MRP cited above, the NOV does not establish the existence of a violation of the Utah Program with any degree of specificity. Notice of violation N92-40-4-1 is vacated on this basis.

The vacation of this violation should not be interpreted to mean that maps and cross sections in the Bear Canyon may not require future amendment. Given substantiation that a permit defect exists, the Division clearly has authority to order remedy of the defects.

vb
novcop



NO. N 92-40-4-1

notice of violation

To the following Permittee or Operator:

Name Co-Op Mining

Mine Bear Canyon Surface Underground Other

County Emery State Utah Telephone 801-381-2450

Mailing Address Post Office Box 1245 Huntington Utah 84152

State Permit No. ACT/015/025

Ownership Category State Federal Fee Mixed

Date of inspection 10-12 March, 1992

Time of inspection 8:00 a.m. p.m. to 3:30 a.m. p.m.

Operator Name (other than Permittee) _____

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 & Mining has conducted an inspection of above mine on above date and has found violation(s) of the act, regulations 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** 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 & 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/ mailing 12 March 1992

Time of service/ mailing 3:30 a.m. p.m.

Charles Reynolds
Permittee/Operator representative

Caroline Cook
Title

Charles Reynolds
Signature

HUGH KLEIN
Division of Oil, Gas & Mining representative

Reclamation Specialist
Title

Hugh Klein
Signature

#40
Identification Number

SEE REVERSE SIDE

WHITE-DOGMI YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE

IMPORTANT — READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Board of Oil, Gas & 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 & 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 violations 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 operations 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 UMC/SMC 843.15(a).)

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 & 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 & Mining
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

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 UMC 845.19 of the board's regulations.

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 Section 40-10-20, 21, 22 and 23, *Utah Code Annotated*, UMC/SMC Parts 843, 845, 900 or contact the Division of Oil, Gas & Mining at (801) 538-5340.



NOTICE OF VIOLATION NO. N 92-40-4-1

Violation No. 1 of 1

Nature of violation

For failing to provide cross sections of diversions

Provisions of act, regulations or permit violated

RG45-301-722 and RG45-301-722.200

Portion of operation to which notice applies

The permit area; specifically all diversions except
D-1D, D-2D, and D-7D.

Remedial action required (including any interim steps)

Provide ~~the~~ cross-sections for all diversions (constructed
or natural) except those specified above. The cross-sections
should satisfy the requirements of RG45-301-722 and
RG45-301-722.200 as well as all other requirements of
the RG45 regulations for map preparation and certification.

Abatement time (including interim steps)

Submit complete and technically adequate ^{maps} ~~plans~~, as specified
under remedial action, to the Division no later than
5 PM, 15 April 1992.