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12 September 1993

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

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DIVISION OF
OIL, GAS & MINING

Re: Proposed Assessment for State Violations No. N93-35-4-1, Co-Op Mining Co., Bear Canyon Mine, ACT/015/025, Emery County, Utah

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

FACT of VIOLATION

The violation was written for "failure to cover combustible material...". The area included in the modification to the violation near Highway 30 was reclaimed in 1980 and the approved plan requires supplemental seeding on the area and does not require 2 ft of cover. It can be shown that both areas in referenced in the violation will be able to meet the required "diverse and effective vegetative cover".

ASSESSMENT

- II. SERIOUSNESS
A. Event Violations

Results of actual testing of the vegetative cover in the areas referenced in this violation will be submitted for review in the hearing. Division Regulations for previously reclaimed areas should be considered along with availability of borrow material.

III. NEGLIGENCE

The Division was involved with Co-Op Mining Company during the regrading of the Lower Pad area in 1991. Evidence of "reckless, knowing, or intentional conduct" would have been clear at that time. A "Greater Degree of Fault" of negligence is not evident in this case and should not be assigned.

IV. GOOD FAITH

Resources were not at hand to achieve compliance and this violation should be treated as "Difficult Abatement". The Division is aware of the regulatory difficulties involved. Co-Op Mining Company representatives have worked closely with the Division on this issue and wish to reach a conclusion that is agreeable to all.

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.