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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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March 11, 1993

TO: File

FROM: Pamela Grubaugh-Littig, Permit Supervisor *pgl*

Re: Status of Permit Renewal Special Conditions, Bear Canyon Mine, Co-Op Mining Company, ACT/015/025, Folder #3, Emery County, Utah

The Division renewed the Bear Canyon Mine permit on May 20, 1991 with two special conditions:

1. Division Order Issued November 27, 1990

"Co-Op Mining Company must submit by May 24, 1991 at 5:00 pm, all complete and technically adequate information to comply with the Division Order issued November 27, 1990. Compliance with this Order includes abatement of NOV #N91-20-1-1 issued April 26, 1991 and any additional enforcement actions related to this matter."

On May 24, 1991 information regarding the Division Order outstanding items (#8, #14, #17 and #18) was submitted. An Informal Hearing was held on November 20, 1991 concerning the fact of Violation #N91-20-1-1 (see attached). This violation was upheld.

On October 30, 1991, Jesse Kelley reviewed and approved the Surface Facilities Maps, as well as the disturbed areas and permit boundaries on the Hydrology Maps. A February 6, 1992 letter to Mr. Wendell Owen approved the hydrology section for the Bear Canyon Mine plan (#18). A May 2, 1992 memo from Jesse Kelley stated that the revised maps and volume estimates to address the Division Order were approved (#14 and #17) (Note: Division Order DO-92D was issued on May 5, 1992 relative to volume estimates and highwall elimination, this Division Order was approved June 1, 1992). Item # 8 was approved December 16, 1992.

Therefore, Condition #1 has been satisfied.

2. Division Order, Informal Hearing, Cause # ACT/015/025, May 20, 1991

"Co-Op Mining Company must comply with all monitoring requirements and restriction contained within the Division Order, Informal Hearing, Cause No. ACT/015/025, dated May 20, 1991, as these requirements and restrictions apply to the present permit and are made part of the permit terms at issuance.

This Special Condition is an ongoing condition for the permit and does not have an end date. If the terms of this condition are not met, enforcement action will be taken.

cc: Susan White

BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION	:	AND ORDER
N91-20-1-1, CO-OP MINING	:	
COMPANY, BEAR CANYON MINE,	:	INFORMAL HEARING
EMERY COUNTY, UTAH	:	CAUSE NO. ACT/015/025

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On November 20, 1991, the Division of Oil, Gas and Mining held an informal hearing concerning the fact of violation for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding:	Dianne R. Nielson, Director Division of Oil, Gas and Mining
Petitioner:	Kimly C. Mangum, P.E. Mangum Engineering Consultants Representing Co-Op Mining Company
Division:	Henry Sauer Reclamation Specialist Pamela Grubaugh-Littig Permit Supervisor (Issued Violation)
Board:	Thomas A. Mitchell, Esq. Assessment Conference Officer Penalty Assessment Joseph Helfrich Assessment Officer Penalty Assessment

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with

this informal hearing, and information in the files of the Division.

FINDINGS OF FACT

1. Notice of this informal hearing was properly given.
2. The Assessment Conference to review the proposed penalties for NOV N91-20-1-1 was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending the decision in the informal review of fact of violation.
3. NOV N91-20-1-1 was written on April 26, 1991, for failure to operate in accordance and compliance with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program, specifically for failure to submit all information required by the Division Order issued November 11, 1990, items 8, 14, 17, and 18. Provisions violated were Utah Admin. R. 614-300-143 and 614-303-212. Abatement required submission of all complete and technically adequate information in compliance with the Division Order by May 24, 1991.
4. The Division Order originally required submission of the required information, including the specific items listed above in Paragraph 3, by January 27, 1991. The submission date was extended to March 27, 1991. A letter from Pam Grubaugh-Littig, dated April 11, 1991, informed Co-Op that the necessary information

had not been submitted.

5. On April 23, 1991, approximately one month after the required submission deadline, Co-Op requested additional time to provide the required information.

6. Co-Op contends that the regulations cited are general.

CONCLUSIONS OF LAW

1. While the rules cited in N91-20-1-1 may be considered broad in scope, the specific direction in the Division Order and the NOV N91-20-1-1 were specific in terms of the information required and the dates by which it was to be submitted.

2. Co-Op failed to comply with the Division Order in a timely manner.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N91-20-1-1 is upheld.

2. The finalized assessment resulting from the Assessment Conference is due and payable to the Division 30 days from the date of this Order.

3. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and/or finalized assessment by filing said appeal within 30 days of the

date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed penalty in escrow.

SO DETERMINED AND ORDERED this 20th day of December,
1991.


Dianne R. Nielson, Director
Division of Oil, Gas and Mining
State of Utah