

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 : AMENDED FINDINGS,
OF FACT OF VIOLATION : CONCLUSIONS AND
N94-35-1-1, CO-OP MINING : ORDER
COMPANY, BEAR CANYON
MINE, EMERY COUNTY, UTAH : CAUSE NO. ACT/015/025

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On May 19, 1994, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Co-Op Mining Company (Co-Op) for the above-referenced Notice of Violation (NOV). The following individuals attended:

Presiding: James W. Carter
Director

Petitioner: Charles Reynolds
Co-Op Mining Company

Division: Joe Helfrich
Assessment Officer

Board: Ronald W. Daniels
Assessment Conference Officer

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. The Assessment Conference, to review the proposed penalties for NOV N94-35-1-1, was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

3. NOV N94-35-1-1 was written for "failure to sample sediment pond waste according to the laboratory methodology as listed in Table 3K-1 of the permit and as committed on page 3K-3 of the permit" and "failure to follow the approved plan."

4. A sediment pond waste sample properly collected by Co-Op was analyzed incorrectly by an independent laboratory retained by Co-Op to perform such analyses.

CONCLUSIONS OF LAW

1. The acts of contractors and agents for a coal permittee constitutes the acts of the permittee within the jurisdiction of the Division.

2. The incorrect analysis of the sediment pond sample constituted a violation of rule R645-300-143 of the Utah program.

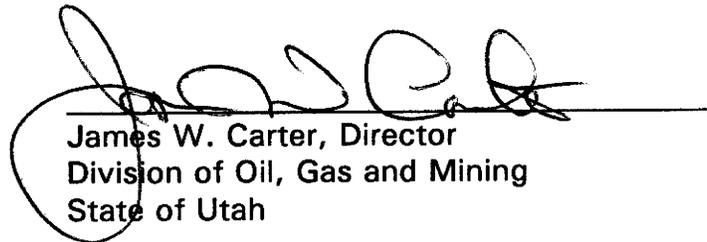
ORDER

NOW THEREFORE, it is ordered that:

1. NOV N94-35-1-1 is upheld.
2. The finalized assessment, resulting from the Assessment Conference of May 19, 1993, is due and payable to the Division 30 days from the date of this Order.

3. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 30th day of June 1994.



James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing
AMENDED FINDINGS, CONCLUSIONS AND ORDER for Cause No. ACT/015/025 to
 be mailed by certified mail, postage prepaid, on the 30th day of June 1994, to the
 following:

**Charles Reynolds
 Co-Op Mining Company
 P.O. Box 1245
 Huntington, Utah 84528**

Janean Burns

P 07' 977 115

RECEIPT FOR CERTIFIED MAIL
 NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

JBE ACT/015/025 FC&O DOGM

Sent to CHARLES REYNOLDS	
CO-OP MINING COMPANY	
PO BOX 1245	
Post Office Name and ZIP Code	HUNTINGTON UT 84528
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 2
Postmark or Date	

SENDER: Complete Items 1 and 2 when additional services are desired, and complete Items 3 and 4.
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: CHARLES REYNOLDS CO-OP MINING COMPANY PO BOX 1245 HUNTINGTON UT 84528	4. Article Number P 074 977 115 Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
Always obtain signature of addressee or agent and DATE DELIVERED.	
5. Signature - Address X <i>Beth Owen</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X	
7. Date of Delivery JUL 07 1994	

PS Form 3800, June 1985

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

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
N94-35-1-1, CO-OP MINING :
COMPANY, BEAR CANYON :
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FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. The Assessment Conference, to review the proposed penalties for NOV N94-35-1-1, was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

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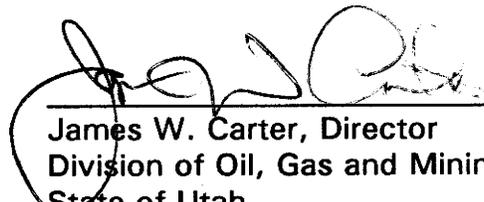
ORDER

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3. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 20th day of June 1994.


James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER for Cause No. ACT/015/025 to be mailed by certified mail, postage prepaid, on the 24 day of June 1994, to the following:

Charles Reynolds
 Co-Op Mining Company
 P.O. Box 1245
 Huntington, Utah 84528

Janean Burns

DOGM JBE ACT/015/025 FC&O

<p>SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered and the date of delivery. For additional fees the following services are available. Consult postmaster fees and check box(es) for additional service(s) requested. 1. <input checked="" type="checkbox"/> Show to whom delivered, date, and addressee's address. 2. <input type="checkbox"/> Restricted Delivery (Extra charge)</p>	
<p>3. Article Addressed to: CHARLES REYNOLDS CO-OP MINING CO P.O. BOX 1245 HUNTINGTON UT 84528</p>	<p>4. Article Number P 074 977 117</p> <p>Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise</p> <p>Always obtain signature of addressee or agent and DATE DELIVERED.</p>
<p>5. Signature - Address X <i>Dolly Stephens</i></p>	<p>8. Addressee's Address (ONLY if requested and fee paid)</p>
<p>6. Signature - Agent X</p>	
<p>7. Date of Delivery JUN 28 1994</p>	