



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

January 19, 1995

Mr. Wendell Owen
Co-Op Mining Company
P. O. Box 1245
Huntington, Utah 84528

Re: Subsidence Mitigation Plan, Co-Op Mining Company, Bear Canyon Mine,
ACT/015/025, Folders #2 & #5, Emery County, Utah

Dear Mr. Owen:

The Division has completed a review of the Subsidence Mitigation Plans which were submitted as an abatement to NOV #94-46-4-1b. At this point your plans are not considered adequate. Please review the enclosed technical review document which discusses the problems with the plans. You should revise your abatement plans making sure that you have addressed the requirement sections of the review. Please be aware that you are still under the abatement obligations and timeframes specified in the NOV. We look forward to your speedy response.

Please call if you have questions.

Sincerely,

Daron R. Haddock
Permit Supervisor

enclosure

cc: P. Hess
T. Munson
P. Grubaugh-Littig
J. Helfrich

subsilet.bea



SUBSIDENCE MITIGATION REVIEW

Co-Op Mining Company
Bear Canyon Mine, ACT/015/025
NOV# 94-46-4-1b
January 18, 1995

ENGINEERING R645-301-500

Analysis

In reviewing the plan and the photographs which Tom Munson took on October 25, 1994, it is calculated that approximately 1,600 cubic yards of material will be necessary to fill the voids. This is a huge amount of material to attempt to move by manual labor. Although Mr. Reynolds indicates that explosives will be used to "assist" in closing and sealing the openings and large fracture, he does not indicate how the charges will be placed or how any of the other criteria which must be designed will be so done as required by R645-300-524.210 & 212. Mr. Reynolds references Appendix 3-M as the blast design control; however, the blast design in Appendix 3-M specifically refers to boulder size reduction and blasting design for road construction purposes. Boulder size reduction may be utilized in the making of fill for the voids; however, this presents another problem. How does the permittee propose to place the charges to reduce the vertical sides of the holes and how will the reduced boulders be placed in the voids without endangering the lives of the worker?

It appears the plan is to obtain the fill material (1,600 yards) from wherever it can be salvaged. Doing this can destroy vegetation and natural sediment control at random. Work will be conducted right in a drainage. Although the drainage was not flowing at the time of the inspection, its watershed consists of 56 acres, (See page 3N-4). Alternated sediment control is not addressed, (R645-301-742.111). Revegetation is not addressed, (R645-301-353). Compaction is not addressed, (R645-301-553.522).

Requirements:

1. If explosives are to be used, a specific blasting plan and design must be submitted which outlines the purpose of and identifies the results of the blasting.
2. Specific plans must be supplied which identify the source of fill materials to be used.
3. Sediment Control must be addressed.
4. Revegetation plans for the areas affected must be submitted.
5. Compaction of the area must be addressed.

HYDROLOGY R645-301-700

Analysis

The plan addresses on page 3N-4 the specifics related to the reconstructed channel. The plan needs to be clarified in regards to showing the existing channel in cross section and the location of the proposed channel and its cross section. The calculations need to be submitted as well and the operator has used the Type B Distribution to calculate flows from the 24 hour storm when it would be more appropriate to the Type II Distribution. There is no reference to the appropriate tables or figures for riprap sizing and depth, as well as, the need for a filter blanket or cloth to be used under the riprap. It is understood that an actual survey can not occur at this time of year but one should be carried out in the spring and the plans based on more specific channel cross sections. The plan refers to a three foot wide channel when the native channel is 15 feet across.

There is also talk of a monitoring plan but it lacks specifics (i.e., about how information will be collected to determine if any fractures re-establish themselves and/or that the channel stays intact as well as specifics about when the surveys will take place (spring and fall)).

Requirements

The abatement is not complete until the following information is clarified.

1. The designs for the reconstructed channel need to be based on actual cross-sections and information surveyed in the field in the spring. All cross-sections are drawn up and presented with the appropriate design calculations emphasizing the transition between the upstream and downstream cross sections and profiles.
A commitment to do this when the snow clears will be considered adequate.
2. Any riprap installed should have an underliner of filter fabric or grouting to prevent piping into old voids. The purpose being that something is needed to help any flows cross the old fractures without significant infiltration. Reference to the installation of a properly graded riprap of a certain rock size distribution is appropriate.
3. The use of the 10 year-24 hour storm for designs is important to get an idea of an appropriate design event but not as important as creating a channel which blends into the surrounding topography and allows flows to pass over the subsided areas without compromising the repair. It was mentioned that a three foot channel would be constructed when the native channel was fifteen feet, raising some obvious questions.

COMPANY/MINE CO-OP Mining Co. NOV/CO # N94-46-4-1B
PERMIT # ACT/015/025 VIOLATION # 1 OF 1

EVENT VIOLATIONS INSPECTOR'S STATEMENT

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Check and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- i. Other.

2. Has the event occurred? Yes No

If yes describe it. If no, what would cause it to occur and how likely is it that it would happen?

+ Major surface openings to underground mine + workings.

3. Would and/or does damage extend off the disturbed and/or permit area? *No*

DISTURBED AREA

PERMIT AREA

Would: Yes No
Does: Yes No

Would: Yes No
Does: Yes No

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

- Potential Loss of Life +

Potential damage off the disturbed area. Yes No

Potential damage off the permit area. Yes No

B. DEGREE OF FAULT (Only one question applies to each violation; check one and discuss.

No Negligence

If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

Recklessness

If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

The void in the drainage was marked off by "T" posts and barbed wire. However it was not maintained. The other voids were not fenced off. I believe the permittee should have corrected.

Knowing and Willful Conduct

Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

→ the situation along time ago, but figured the damage would never be discovered.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance. *I believe they do.*

3. Was the submission of plans prior to physical activity required by this NOV? Yes No

12/22/94

DATE

Peter Hess

AUTHORIZED REPRESENTATIVE

→ I believe the permittee knew of this situation a long time ago but never did anything about it, therefore Good Faith Points are not deserved. I believe they felt the damage would never be discovered; I believe the permittee had a total disregard for public safety and should be penalized to the maximum allowable by law.



VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Co-Op Mining Company

Mailing Address PO Box 1245, Huntington Utah 84308

State Permit No. ACT/015/025

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated* (1953):

Notice of Violation No. N 94-46-4-1B dated December 12, 19 98

Cessation Order No. C _____ dated _____, 19 _____

Part _____ of _____ is vacated terminated because the permittee has fulfilled the
requirements necessary to abate the hazards associated with the violation.

Part _____ of _____ is vacated terminated because _____

Part _____ of _____ is vacated terminated because _____

Date of service/ mailing December 19, 1998

Time of service/ mailing 12:00 a.m. p.m.

Charles Reynolds
Permittee/Operator representative

Environmental Engineer
Title

worked from DOGM Price Office
Signature

Eric Hess
Division of Oil, Gas & Mining

Engineer II
Title

[Signature]
Signature

CHECK DATE: 10-MAY-1995

CHECK NUMBER: 18561

NOV file

INVOICE DATE	INVOICE NO.	DESCRIPTION	AMOUNT	DISCOUNT OR DEDUCTION	NET AMOUNT
05-apr-1995	N944641B ACT/015/025	BEAR041910177060419	680.00	0.00	680.00
<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p style="font-size: 2em; margin: 0;">RECEIVED</p> <p style="font-size: 1.2em; margin: 5px 0;">MAY 23 1995</p> <p style="margin: 0;">DIV. OF OIL, GAS & MINING</p> </div>			680.00	0.00	680.00

PAYEE: Detach this statement before cashing check - This check is in payment for items shown above.

C W MINING
NBM ACCOUNTS PAYABLE SPECIALISTS

53 WEST ANGELO AVENUE
SALT LAKE CITY, UTAH 84115
PH. 801-467-4003

BANK ONE, UTAH, N.A.
SOUTH SALT LAKE OFFICE
SALT LAKE CITY, UT 84115-3119
97-154/1240

NO. 18561¹⁸⁵⁶¹

CHECK DATE

10-MAY-1995

AMOUNT \$ *****680.00

HUNDRED EIGHTY & 00/100 DOLLARS*

DEPT. OF REVENUE
 STATE OF UTAH
 355 WEST NORTH TEMPLE
 SALT LAKE CITY, UT 84103
 801-533-8880
 STATE OF UTAH/OIL, GAS
 355 WEST NORTH TEMPLE
 TRIAD CENTER STE 350
 SALT LAKE CITY UT 84180-1203

STATE OF UTAH/OIL, GAS
355 WEST NORTH TEMPLE
3 TRIAD CENTER STE 350
SALT LAKE CITY UT 84180-1203



⑈018561⑈ ⑆124001545⑆

911675038⑈

CO-OP MINING COMPANY

P.O. Box 1245
Huntington, Utah 84528



Office (801) 687-2450
FAX (801) 687-5238
Coal Sales (801) 687-5777

May 4, 1995

Pamela Grubaugh-Littig
Utah Division of Oil, Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

MAY - 9 1995

Ms. Grubaugh-Littig,

Re: Subsidence Mitigation Plan, NOV N94-46-4-1 Abatement, Bear Canyon Mine, ACT/015/025-94J, Emery County, Utah

Enclosed are three finalized copies of Appendix 3-N and an updated Table of Contents for Chapter 3. This amendment was approved per Division letter dated April 28, 1995. copies have also been forwarded to the Price offices of the DEQ, Water Rights and Wildlife Resources.

If you have any questions, please call Charles Reynolds at (801) 687-2450.

Thank You,

Wendell Owen,
Resident Agent

Enclosure(s)
cr



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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May 10, 1995

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Ste. 1200
Albuquerque, NM 87102

Re: Subsidence Mitigation (NOV N94-46-4-1), Bear Canyon Mine, Co-Op Mining Company, ACT/015/025-94J, Folder #2, Emery County, Utah

Dear Mr. Ehmett:

Enclosed please find Appendix 3-N and the updated Table of Contents for Chapter 3, effective April 28, 1995.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

Enclosure

cc: Price Field Office



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March 27, 1995

TO: James W. Carter, Director

FROM: Peter Hess, Engineer *PH*

RE: Subsidence-New Evidence for Consideration, Re-evaluation of Assessment, NOV N94-46-4-1, Bear Canyon, Co-Op Mining Company, ACT/015/025, Emery County, Utah

As we briefly discussed on March 24, 1995, Mr. Charles Reynolds, Environmental Coordinator, Co-Op Mining Company, has submitted additional evidence which needs to be considered for the finalized assessment of the aforementioned violation, should your determination uphold same.

Plate 3-4, (dated April 15, 1987) which is a map of the underground workings of the Bear Canyon Mine, shows that ventilation stoppings were installed out by the initial subsidence hole, which is the hole that was barricaded off in the drainage; this is shown as a cave in the 1st South retreat section. MSHA does not consider stoppings to have the same ventilation effectiveness as mine seals; however, considering the fact that the permittee did barricade off the hole, (which is all 30 CFR, Part 75.1711 requires) and did block entrance to the gob area of the underground works. I believe that the amount of negligence points in the assessment should be reduced. The majority of underground management personnel are not aware of the requirements of SMCRA.

No action was taken to prevent drainage access into the underground works, (R645-301-513.600). Also, it appears that MSHA personnel did not require the permittee to fill in the hole because they felt the barricade was adequate to prevent any problems. It is not known when the other two holes subsided; it is possible that the permittee had no knowledge of them until N94-46-4-1B was issued.



Page 2
J. Carter
Bear Canyon
March 27, 1995

It is my opinion, that although the permittee should have taken it upon himself to fill in the hole, (to go above and beyond the call of duty, so to speak) they did not because no one required them to do so. This is not their fault.

I would like to recommend that, should you uphold the violation, the amount of negligence points be reduced to 10.

Should you have any questions, please call me.

sd

cc: J. Helfrich

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

---ooOoo---

IN THE MATTER OF THE APPEAL : FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION N94-46-4-1B, AND ORDER
CO-OP MINING COMPANY, BEAR :
CANYON MINE : CAUSE NO. ACT/015/025

:
---ooOoo---

On March 10, 1995, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Co-Op Mining Company for the above-referenced Notice of Violation (NOV). The following individuals attended:

- Presiding: James W. Carter
Director
- Petitioner: Charles Reynolds
Kimly Mangum
- Division: Peter Hess

Joe Helfrich
Assessment 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 requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

3. NOV N94-46-4-1B was written for "Failure to meet the terms and conditions of the approved permit," and for "Failure to prevent access to the mine workings by people, livestock, fish and wildlife," violations of R645-301-560 and R645-301-551, respectively.

4. R645-301-551 requires that ". . . each shaft, drift, adit, tunnel, or other opening to the surface from the underground will be capped, sealed and backfilled or otherwise properly managed as required by the Division . . ." It was demonstrated by photographs and testimony, that two of the three subsidence openings in question had not been fenced or otherwise blocked off to prevent the entrance of wildlife, livestock, or people, and that the fencing around the third opening was in disrepair.

5. Subsequent to the informal conference, it was determined that the primary, fenced opening has been sealed from inside the workings. It is not clear from the evidence that the operator was aware of the two unfenced openings until issuance of the instant NOV.

CONCLUSIONS OF LAW

1. Although the proper sealing of the primary subsidence opening from inside the mine workings satisfies a significant purpose of the opening-closure requirement, the operator's failure to adequately maintain the fence around the primary subsidence opening constitutes a technical violation of the Utah regulatory program.

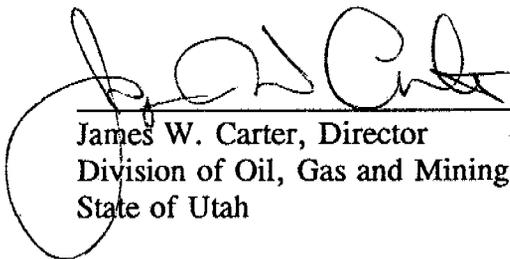
ORDER

NOW THEREFORE, it is ordered that:

1. NOV N94-46-4-1B is upheld.

2. 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 17th day of April, 1995.


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



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Salt Lake City, Utah 84180-1203
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801-538-5319 (TDD)

April 5, 1995

CERTIFIED RETURN RECEIPT
P 074 976 190

Wendell Owen
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Re: Reassessment for State Violation No. N94-46-4-1B, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

Dear Mr. Owen:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty reassessment for the above-referenced violation. The violation was issued by Division Inspector, Peter Hess on December 12, 1994. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt



Page 2
N94-46-4-1B
ACT/015/025
April 5, 1995

of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

A handwritten signature in cursive script that reads "Joseph C. Helfrich".

Joseph C. Helfrich
Assessment Officer

blb
Enclosure
cc: Donna Griffin, OSM

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op Mining/Bear Canyon Mine

NOV #N94-46-4-1B

PERMIT # ACT/015/025

VIOLATION 1 OF 1

ASSESSMENT DATE 3/14/95

ASSESSMENT OFFICER Joseph C. Helfrich

I. **HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 3/14/95

EFFECTIVE ONE YEAR TO DATE 3/14/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

0

—

0

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 0

II. **SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? A

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Public safety Environmental harm

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Yes

.... PROBABILITY	RANGE
.... None	0
.... Unlikely	1-9
.... Likely	10-19
.... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector identified major surface openings to underground mine working, which in turn would be a public safety concern.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Although the area is remote access by the public is feasible with a potential for injury or a loss of life

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 32

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

.... No Negligence	0
.... Negligence	1-15
.... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary.

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS

The void in the drainage, which is the subject of this violation, was marked off by t posts and barbed wire. However it was not maintained and the other voids were not fenced off. It has additionally been represented that this violation was also the subject of a previous notice of violation issued in 1985. See attached.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 **IF SO - EASY ABATEMENT**
 Easy Abatement Situation
 - **Immediate Compliance -11 to -20***
 (Operator complied immediately following the issuance of the NOV)
 - **Rapid Compliance -1 to -10***
 (Permittee used diligence to abate the violation)
 - **Normal Compliance 0**
 (Operator complied within the abatement period required)
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

..... **IF SO - DIFFICULT ABATEMENT**

Difficult Abatement Situation

..... **Rapid Compliance -11 to -20***

..... (Permittee used diligence to abate the violation)

..... **Normal Compliance -1 to -10***

..... (Operator complied within the abatement period required)

..... **Extended Compliance 0**

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ **ASSIGN GOOD FAITH POINTS** -0

PROVIDE AN EXPLANATION OF POINTS

This is to be evaluated upon termination of the notice of violation which is to occur on or about May 15, 1995.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>32</u>
III.	TOTAL NEGLIGENCE POINTS	<u>10</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>42</u>
	TOTAL ASSESSED FINE	<u>\$ 680.00</u>

blb



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March 27, 1995

TO: James W. Carter, Director

FROM: Peter Hess, Engineer *PH*

RE: Subsidence-New Evidence for Consideration, Re-evaluation of Assessment, NOV N94-46-4-1, Bear Canyon, Co-Op Mining Company, ACT/015/025, Emery County, Utah

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J. Carter
Bear Canyon
March 27, 1995

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sd
cc: J. Helfrich



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March 27, 1995

TO: James W. Carter, Director

FROM: Peter Hess, Engineer PH

RE: Subsidence-New Evidence for Consideration, Re-
evaluation of Assessment, NOV N94-46-4-1, Bear Canyon,
Co-Op Mining Company, ACT/015/025, Emery County, Utah

*Please put in
 Red List
 PH NOV
 files.*

Copy to #5

As we briefly discussed on March 24, 1995, Mr. Charles Reynolds, Environmental Coordinator, Co-Op Mining Company, has submitted additional evidence which needs to be considered for the finalized assessment of the aforementioned violation, should your determination uphold same.

Plate 3-4, (dated April 15, 1987) which is a map of the underground workings of the Bear Canyon Mine, shows that ventilation **stoppings** were installed out by the initial subsidence hole, which is the hole that was barricaded off in the drainage; this is shown as a cave in the 1st South retreat section. MSHA does not consider stoppings to have the same ventilation effectiveness as mine seals; however, considering the fact that the permittee did barricade off the hole, (which is all 30 CFR, Part 75.1711 requires) and did block entrance to the gob area of the underground works. I believe that the amount of negligence points in the assessment should be reduced. The majority of underground management personnel are not aware of the requirements of SMCRA.

No action was taken to prevent drainage access into the underground works, (R645-301-513.600). Also, it appears that MSHA personnel did not require the permittee to fill in the hole because they felt the barricade was adequate to prevent any problems. It is not known when the other two holes subsided; it is possible that the permittee had no knowledge of them until N94-46-4-1B was issued.





MODIFICATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Co-Op Mining Company

Mailing Address P. O. Box 1245, Huntington, Utah 84528

State Permit No. ACT/015/025

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated* (1953):

Notice of Violation No. N 94-46-4-1B dated December 12, 1994

Cessation Order No. C _____ dated _____, 19____

Part 1 of 1 is modified as follows: install adequate barricades with warning signs around the subsidence areas as soon as weather conditions permit (no later than May 1, 1995) to prevent access by people, livestock, and wildlife.

Reason for modification is for the safety of general public.

Part 1 of 1 is modified as follows: submit a mitigation plan to the DOGM which meets the requirements of the R645 Regulations by no later than May 1, 1994.

Reason for modification is permittee has made a request, due to weather conditions, for time to obtain information and prepare plan.

additional

Part 1 of 1 is modified as follows: Implement the approved plan by no later than May 15, 1995. Complete the work necessary to remove the hazards associated with the violation by no later than September 15, 1995. Completion of the approved plan will be achieved by no later than November 1, 1995.

Date of service/mailling January 31, 1995 Time of service/mailling 12:00 a.m. p.m.

Date of inspection October 25, 1994

Charles Reynolds
Permittee/Operator representative

Environmental Coordinator
Title

mailed from PRO DOGM
Signature

Peter Hess
Division of Oil, Gas & Mining

Engineer II
Title

Signature



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

Nov 26

February 23, 1995

CERTIFIED RETURN RECEIPT REQUESTED
No. P 074 977 552

Wendell Owen
Co-Op Mining Company
P. O. Box 1245
Huntington, Utah 84528

Re: Informal Hearing for State Violation N94-46-4-1B, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

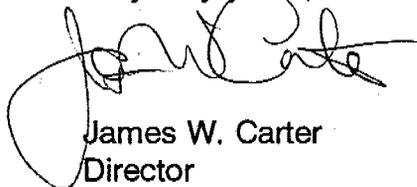
Dear Mr. Owen:

In accordance with a written request from you dated December 16, 1994, please be advised that the Informal Hearing on state violation N94-46-4-1B, Bear Canyon Mine has been established for Friday, March 10, 1995, beginning at 10:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will be held at the office of the Division of Oil, Gas and Mining.

Very truly yours,



James W. Carter
Director

vb
cc: L. Braxton
J. Helfrich
PFO





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

March 16, 1995

CERTIFIED RETURN RECEIPT
P 074 976 179

Wendell Owen
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Re: Proposed Assessment for State Violation No. N94-46-4-1B, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

Dear Mr. Owen:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Pete Hess on December 12, 1994. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt

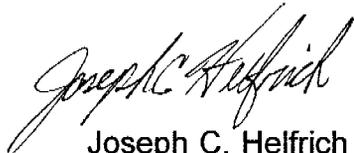


Page 2
N94-46-4-1B
ACT/015/025
March 16, 1995

of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

blb
Enclosure
cc: Donna Griffin, OSM

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Co-Op Mining/Bear Canyon Mine

NOV #N94-46-4-1B

PERMIT # ACT/015/025

VIOLATION 1 OF 1

ASSESSMENT DATE 3/14/95

ASSESSMENT OFFICER Joseph C. Helfrich

I. **HISTORY MAX 25 PTS**

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 3/14/95

EFFECTIVE ONE YEAR TO DATE 3/14/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

0

—

0

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 0

II. **SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? A

A. **Event Violations Max 45 PTS**

1. What is the event which the violated standard was designed to prevent?
Public safety and Environmental harm.

- 2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Yes

..... PROBABILITY	RANGE
..... None	0
..... Unlikely	1-9
..... Likely	10-19
..... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector identified major surface openings to underground mine workings, which in turn would be a public safety concern.

- 3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Although the area is remote access by the public is feasible with a potential for injury or a loss of life.

B. Hindrance Violations MAX 25 PTS

- 1. Is this a potential or actual hindrance to enforcement?

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 32

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

.... No Negligence	0
.... Negligence	1-15
.... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault.

ASSIGN NEGLIGENCE POINTS 30

PROVIDE AN EXPLANATION OF POINTS

The void in the drainage, which is the subject of this violation, was marked off by t posts and barbed wire. However it was not maintained and the other voids were not fenced off. It has additionally been represented that this violation was also the subject of a previous notice of violation issued in 1985.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 **IF SO - EASY ABATEMENT**
 Easy Abatement Situation
- | | |
|--|--------------------|
| Immediate Compliance | -11 to -20* |
| Immediately following the issuance of the NOV) | |
| Rapid Compliance | -1 to -10* |
| (Permittee used diligence to abate the violation) | |
| Normal Compliance | 0 |
| (Operator complied within the abatement period required) | |
| (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

..... **IF SO - DIFFICULT ABATEMENT**

Difficult Abatement Situation

..... **Rapid Compliance -11 to -20***

..... (Permittee used diligence to abate the violation)

..... **Normal Compliance -1 to -10***

..... (Operator complied within the abatement period required)

..... **Extended Compliance 0**

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ **ASSIGN GOOD FAITH POINTS** -0

PROVIDE AN EXPLANATION OF POINTS

This is to be evaluated upon termination of the notice of violation which is to occur on or about May 15, 1995.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>32</u>
III.	TOTAL NEGLIGENCE POINTS	<u>30</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>62</u>
	TOTAL ASSESSED FINE	<u>\$ 1,560.00</u>

blb

CO-OP MINING COMPANY

P.O. Box 1245
Huntington, Utah 84528



RECEIVED	
DEC 23 1994	
DIV OF OIL, GAS & MINING	

Coal Sales (801) 381-5238
(801) 381-5777

CC: JWG
CPB
JCH
orig. File

December 16, 1994

Jim Carter, Director
Utah Division of Oil, Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Mr. Carter,

Re: Fact of Violation, NOV 94-46-4-1B, Bear Canyon Mine, ACT/015/025, Emery County, Utah

As resident agent of Co-Op Mining Co. I request an informal hearing to review the fact of violation for NOV 94-46-4-1B, dated December 12, 1994.

If you have any questions, please call Charles Reynolds at (801) 687-2450.

Thank You,
Wendell Owen
Wendell Owen,
Resident Agent

NO. N 94-46-4-1B

notice of violation

To the following Permittee or Operator:

Name Co-Op Mining Company

Mine Bear Canyon Mine Surface Underground Other

County Emery State Utah Telephone 801-687-2450

Mailing Address P. O. Box 1245, Huntington, Utah 84528

State Permit No. ACT/015/025

Ownership Category State Federal Fee Mixed

Date of inspection October 25, 1994, 1994

Time of inspection 9:00 a.m. p.m. to 1:00 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.

*** Certified Mail Z 254 438 034

Date of ~~service~~/mailing December 12, 1994

Time of ~~service~~/mailing 3:00 a.m. p.m.

Charles Reynolds
Permittee/Operator representative

Environmental Coordinator
Title

Mailed from DOGM Price office
Signature

Peter Hess
Division of Oil, Gas & Mining representative

Engineer II
Title

[Signature]
Signature

#46
Identification Number

SEE REVERSE SIDE

WHITE-DOGM YELLOW-OPERATOR PINK-OSM GOLDENROD-NOV FILE



NOTICE OF VIOLATION NO. N 94-46-4-1B

Violation No. 1 of 1

Nature of violation

- 1) Failure to meet the terms and conditions of the approved permit.
- 2) Failure to prevent access to the mine workings by people, livestock fish and wildlife.

Provisions of act, regulations or permit violated

- 1) R645-301-560
- 2) R645-301-551

Portion of operation to which notice applies

Surface subsidence sites in unnamed canyon between Trail Canyon and Bear Canyon.
Subsidence is associated with the underground workings of the Bear Canyon Mine.

Remedial action required (including any interim steps)

- 1) Submit a plan to the Utah Division of Oil, Gas, and Mining for approval to effectively remove the hazards associated with the surface subsidence sites.
- 2) Upon Division approval, implement said plan.

Abatement time (including interim steps)

- 1) Submit plan no later than December 27, 1994 at 5:00 p.m.
- 2) Implement approved plan within 30 days of Division approval.

Performance Standard H