



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

*cc Tol  
orig file*

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)

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

*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.

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

# CO-OP MINING COMPANY

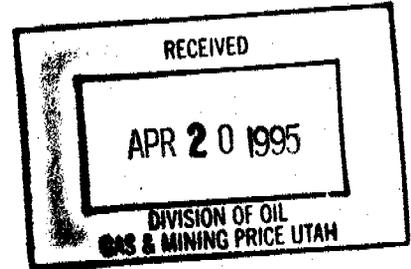
P.O. Box 1245  
Huntington, Utah 84528



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

April 17, 1995

Pete Hess  
Utah Division of Oil, Gas & Mining  
C.E.U. Box 169, 451 East 400 North  
Price, Utah 84501-2699



Mr. Hess

Re: Subsidence Mitigation, Bear Canyon Mine, ACT/015/025-94J,  
Emery County, Utah

Enclosed are three copies of pages 3N-14, 3N-15 and 3N-16. These pages have been revised to include changes requested by you per our telephone conversation. Please replace the previously submitted pages 3N-14 thru 3N-16 with these pages.

Upon approval, three finalized copies will be sent to the Division. If you have any questions, please call Charles Reynolds at (801) 687-2450.

Thank You,

Wendell Owen,  
Resident Agent

Enclosure(s)  
cr

## Blast Design

All blasting work will be performed by a certified blaster. The supervisor of the work will also be a certified fireboss, in order to make routine gas checks for methane and oxygen deficiency at the openings while work is being performed. Only explosives approved by the MSHA in 30 CFR Part 75.1310 will be employed in the reclamation, following the general procedures described in Appendix 3-M. Each blast will not exceed 5 pounds of explosives, as required by Appendix 3-M. In addition, gas checks will be made by the fireboss prior to each blast to insure that no flammable gases are bleeding from the openings.

The purpose of the explosives is to 1.) Break up the large rock within the subsidence hole in the drainage, 2.) Force large rocks into the holes which are immediately upslope from the holes to use as fill, and 3.) shear material from the vertical sides of the holes into the holes to use as fill and to re-establish the approximate original contour. Due to the remoteness of the area, equipment will not be available for drilling holes for the explosives. Therefore, the blast design will consist of explosives being mud- or dirt-packed against the back of the rocks and will be placed on the slopes to be sheared as shown in Figures 3N-1, 3N-3 and 3N-4 so that the force of the explosion forces the rocks and material into the subsidence holes. This will avoid the need for manually pushing rocks or shoveling material into the holes, since

APPROVED

APR 20 1995

B.C.

DM. GILLESPIE

3N-14

DRAFT

12/16/94

working adjacent to the holes prior to filling would pose a safety hazard to the men working. Should work be required adjacent to the openings, workmen will be properly secured from falling using safety belts and lines as required by 30 CFR Part 77.1710, paragraph G).

During the mitigation work, no explosives will be left unattended. Only the amount of explosives to be used each day will be taken to the subsided area. Any explosives not used will be carried back to the minesite. All explosives will be stored in the explosives magazines located near the Bear Canyon fan when not in use.

No buildings exist within one-half mile of the blasting area which would be affected by ground vibration or airblast. Warning signals and access control will follow the procedures outlined in Appendix 3-M. A blasting record will be kept of all blasts as described in Appendix 3-M.

#### Sediment Control

The primary sediment and erosion control will be the use of erosion control matting, which will be placed on the disturbed areas, with the exception of the actual channel bottom. This BTCA method of treatment was chosen in order to avoid placing an impounding structure across the channel, since blocking the channel would not be prudent. Erosion control matting will be maintained

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APR 20 1995

DM. CH. 000 0 00000

in the areas until adequate vegetation is established. At that time, a permit amendment will be submitted to the Division demonstrating the adequacy of the vegetation.

### Revegetation

In the Fall of 1995, following backfilling, the affected areas will be reseeded using the seed mix shown in Table 9.5-3.

### Monitoring

Due to the remoteness of the area, equipment will not be available for compacting the material into the holes. Therefore, the area will be monitored biannually in the Spring and Fall in order to observe any settling which will occur as the material naturally compacts itself. In the event the material settles to the point where positive drainage away from the holes no longer occurs, or if any additional fractures begin to form as a result of settling and compacting, additional backfilling will be done to correct any of these problems. Monitoring will also include observing the re-established drainage to insure that it is functioning properly and runoff is passing across the area of mitigation. Any problems which are observed will be corrected in an expedient manner.

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APR 20 1995

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APR 20 1995

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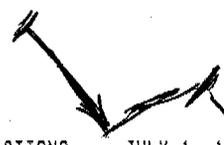
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APPROVED

APR 20 1995

W W



ENFORCEMENT ACTIONS JULY 1, 1993 THRU JUNE 30, 1994

TUESDAY APRIL 25, 1995

ACTIVE SITES	INS	C	P	O	NOV/CO	ISSUED	MODIFIED	ABATEMENT	TERMINATED	VACATED	COMMENTS
SUNNYSIDE CO-GEN JRH	P				N-93-13-02-01	11/16/93	04/17/95	06/01/95			PERMIT CONDITIONS

\* NEW VIOLATION

\* ABATEMENT DUE

ENFORCEMENT ACTIONS JULY 1, 1994 THRU JUNE 30, 1995

TUESDAY APRIL 25, 1995

ACTIVE SITES	INS	C	P	O	NOV/CO	ISSUED	MODIFIED	ABATEMENT	TERMINATED	VACATED	COMMENTS
WHITE OAK	HS				P N-95-32-01-01	* 04/12/95		04/28/95			NON-COAL WASTE
BEAR CANYON	PH				P N-94-46-04-18	12/12/94	01/31/95	05/01/95			PORTAL BREAKOUTS RCD 12/27
BEAR CANYON	WJM				P C-95-26-01-01	04/13/95		04/30/95			ROAD REFUSE 2ND PT DUE 4/20
WELLINGTON	SD				P N-94-39-09-02#1	04/06/95		05/08/95			REFUSE PILE DESIGNS
WELLINGTON	SD				P N-94-39-09-02#2	04/06/95		05/08/95			SLOPE GRADIENT 2H:1V

\* NEW VIOLATION

\* ABATEMENT DUE

# Coop informal Conference

→ Pete Arew

→ Joe, Kim Mangum, Charles Reynolds

→ 3 Subsidence holes - some not barricaded

→ Violation requires sealing the holes  
MSHA concern - oxygen

R 645-301 - 551 - Sealing underground  
openings

560 -

"going to the  
surface from  
underground"

529 - Mt Mine Openings

525.210 - Subsidence Control

" .231 -

516.600 -

MSHA 30 CFR 1711 - Sealing mine

" " 75.329-1 -

Charles Reynolds

- IBC was not formally approved, but application has since been filed
- Not "underground opening" but subsidence holes
- RC45 301 525 is section on subsidence -  
"correct damage caused by subsidence to the extent reasonably . . . . ."
- Permit calls for mitigation of subsidence which they are doing
- Not an NOU, but a mitigation issue

Pete

→ Terms & conditions of permit require subsidence mitigation

Kim

- ~~in~~ in 1985 all agencies said condition is OK, now, in 1994 we've

Pete ⇒ Rocks have changed, mine was operating, but now is not

Kim ⇒ This is a maintenance issue

Charles

- Inspection Oct 25, Cooper has no record ~~of~~ showing inspection at either mine, no credentials shown

Pete was looking for water data, not actually doing an inspection

Hole developed during mining, installed broddice to shut down air flow - fence to keep area safe



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, 19

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 ~~9/15/94~~ mailing December 12, 1994

Time of ~~9:00~~ 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*



UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

## 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, 1995.

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~~/mailing January 31, 1995 Time of ~~service~~/mailing 12:00  a.m.  p.m.

Date of inspection October 25, 1994

Charles Reynolds  
Permittee/Operator representative

Environmental Coordinator  
Title

mailed from PFO DOGM  
Signature

Peter Hess  
Division of Oil, Gas & Mining

Engineer II  
Title

Signature

WHITE - DOGM    YELLOW - OSM    PINK - PERMITTEE/OPERATOR    GOLDENROD - NOV FILE  
DOGM/MVC-1

an equal opportunity employer

Rev. 12/86 001059

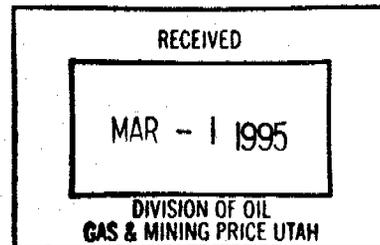
2-1-95

To: <u>Joe</u>	From: <u>Stephanie</u>	# of pages: <u>1</u>
Co. _____	Co. _____	
Dept. _____	Phone # _____	
Fax # _____	Fax # _____	

DOGMINOV-1

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS & MINING

1588 West North Temple  
Salt Lake City, Utah 84116  
Telephone: (801) 533-5771



NOTICE OF VIOLATION NO.N 85-4-25-1

From the STATE OF UTAH  
To the Following Permittee or Operator:

NAME CO-OP MINING COMPANY

MINE BEAR CANYON MINE  SURFACE  UNDERGROUND  OTHER

CATEGORY OF OWNERSHIP:  STATE  FEDERAL  FEE  MIXED

OSM MINE NO. \_\_\_\_\_ STATE PERMIT NO. ACT/015/022025 MSHA I.D. NO. \_\_\_\_\_

COUNTY AND STATE EMERY COUNTY, UTAH TELEPHONE \_\_\_\_\_

MAILING ADDRESS: P.O. Box 1245 HUNTINGTON, UT

DATE OF INSPECTION SEPT. 12 + 13, 19 85

TIME OF INSPECTION: FROM 11:00 - 4:15  a.m.  p.m. AND 10:30 - 12:15  a.m.  p.m.

NAME OF OPERATOR (if other than permittee) \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

Under the authority of the Utah Coal Mining and Reclamation Act of 1979 (Sec. 40-10-1 et seq., Utah Code Annotated, 1953), the undersigned authorized representative of the Director and the Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found violation(s) of the Act, the regulations or required permit condition(s) listed in the 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 minesite.

This Notice shall remain in effect until it expires as provided on the reverse or is modified, terminated or vacated by written notice of an authorized representative of the Director of the Division of Oil, Gas & Mining. The time for abatement may be extended by the authorized representative for good cause, if a request is made within a reasonable time before the end of the abatement period.

Date of Service SEPT 13, 1985 David Loe  
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 12:50  a.m.  p.m. DAVID LOE #4  
NAME AND I. D. NO.

Person Served with Notice ANSEL STEWART  
PRINT NAME AND TITLE

Signature Ansel Stewart

IMPORTANT — PLEASE READ REVERSE OF THIS PAGE



DEPARTMENT OF NATURAL RESOURCES - DIVISION OF OIL, GAS, AND MINING  
1588 WEST NORTH TEMPLE - SALT LAKE CITY, UTAH 84116 - (801) 533-5771

56 64 16

STATE OF UTAH

Notice of Violation No. N. 95-4-25-1

Violation No. 1 of 1

Nature of the Violation

CONDUCTING MINING ACTIVITIES WITHOUT A VALID PERMIT

Provision(s) of the Regulations, Act, or Permit Violated

UCA 40-10-9 (1)  
UMC 771.11

Portion of the Operation to which Notice Applies

THOSE AREAS MINED OUTSIDE THE PERMIT AREA IN THE NE 1/4, NW 1/4, SECTION  
26 AND SE 1/4, NE 1/4, SEC. 26

Remedial Action Required (including Interim steps, if any)

SUBMIT COMPLETE AND ADEQUATE INFORMATION TO THE DIVISION FOR THE  
PERMITTING OF THE AREA DESCRIBED ABOVE

Time for Abatement (including time for interim steps, if any)

SEPT. 27, 1985 @ 1:00 P.M. (INFORMATION MUST BE IN THE DIVISION  
OFFICES AT THIS TIME)



UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

3 Trid Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

### 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

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 85-4-25-1 dated Sept. 13, 1985

Cessation Order No. C \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_

Part 1 of 1 is modified as follows: "REMEDIAL ACTION REQUIRED" CHANGED TO READ "A. PERMIT THOSE AREAS DESCRIBED ABOVE B. CEASE ALL

Reason for modification is MINING ~~ALL~~ ACTIVITIES IN THE AREAS DESCRIBED ABOVE

"TIME FOR ABATEMENT" CHANGED TO READ "A. DECEMBER 12, 1985

Part \_\_\_\_\_ of \_\_\_\_\_ is modified as follows: B. IMMEDIATELY.

Reason for modification is \_\_\_\_\_

Part \_\_\_\_\_ of \_\_\_\_\_ is modified as follows: \_\_\_\_\_

Date of service/mailling Nov. 14, 1985 Time of service/mailling 4:30  a.m.  p.m.

Mr. Ewan Kingston  
Permittee/Operator representative Title \_\_\_\_\_

Signature \_\_\_\_\_

DAVID L OF  
Division of Oil, Gas & Mining

MINING FIELD SPECIALIST  
Title

David L of  
Signature

THIS MODIFICATION WAS SENT W/ A DIVISION LETTER DATED 11/16/85 RE: THE  
WHITE-DOCM YELLOW-OSM PINK-PERMITTEE OPERATOR GOLDENROD-NOV FILE

REVISION OF THE OPERATORS 9/24/85 SUBMITAL FOR ABATEMENT OF THE NOV

# CO-OP MINING COMPANY

P.O. Box 1245  
Huntington, Utah 84528



(801) 748-5238  
Coal Sales (801) 748-5777

February 22, 1986

**RECEIVED**  
FEB 24 1986

Mr. D. Wayne Hedberg  
Utah Division of Oil, Gas & Mining  
355 West North Temple  
#3 Triad Center Suite 350  
Salt Lake City, Utah 84180-1203

DIVISION OF  
OIL, GAS & MINING

RE: Nov. 15, 1985 Letter, Abatement  
Action on NOV 85-4-25-1 Bear  
Canyon Act./015/025

Dear Wayne:

I received a copy of the above mentioned letter on Feb. 21, 1986. I apologize about the delay in a response although on numerous occasions we have requested that all enforcement actions as well as permitting correspondence be sent to the mine and copied to me personally.

Item #1 A current survey has substantiated that the southern trespass area was not mined as previously believed. There is only one area that was historically undermined. That area is delineated on the subsidence plate enclosed (Plate 3-3). The angle of draw and subsidence is addressed for this area in Appendix 3-5-814 Bear Canyon MRP, Chapter 3.

Item #2 The area in question is owned in the fee by Co-Op and the coal is leased. A copy of the lease will be delivered to your office on 2/24/86. I have included a copy of the Property Plate Key map for your review. The ownership is documented in the Bear Canyon MRP Chapter 2 Appendix 2-B as well as pictured on Plate 2-1.

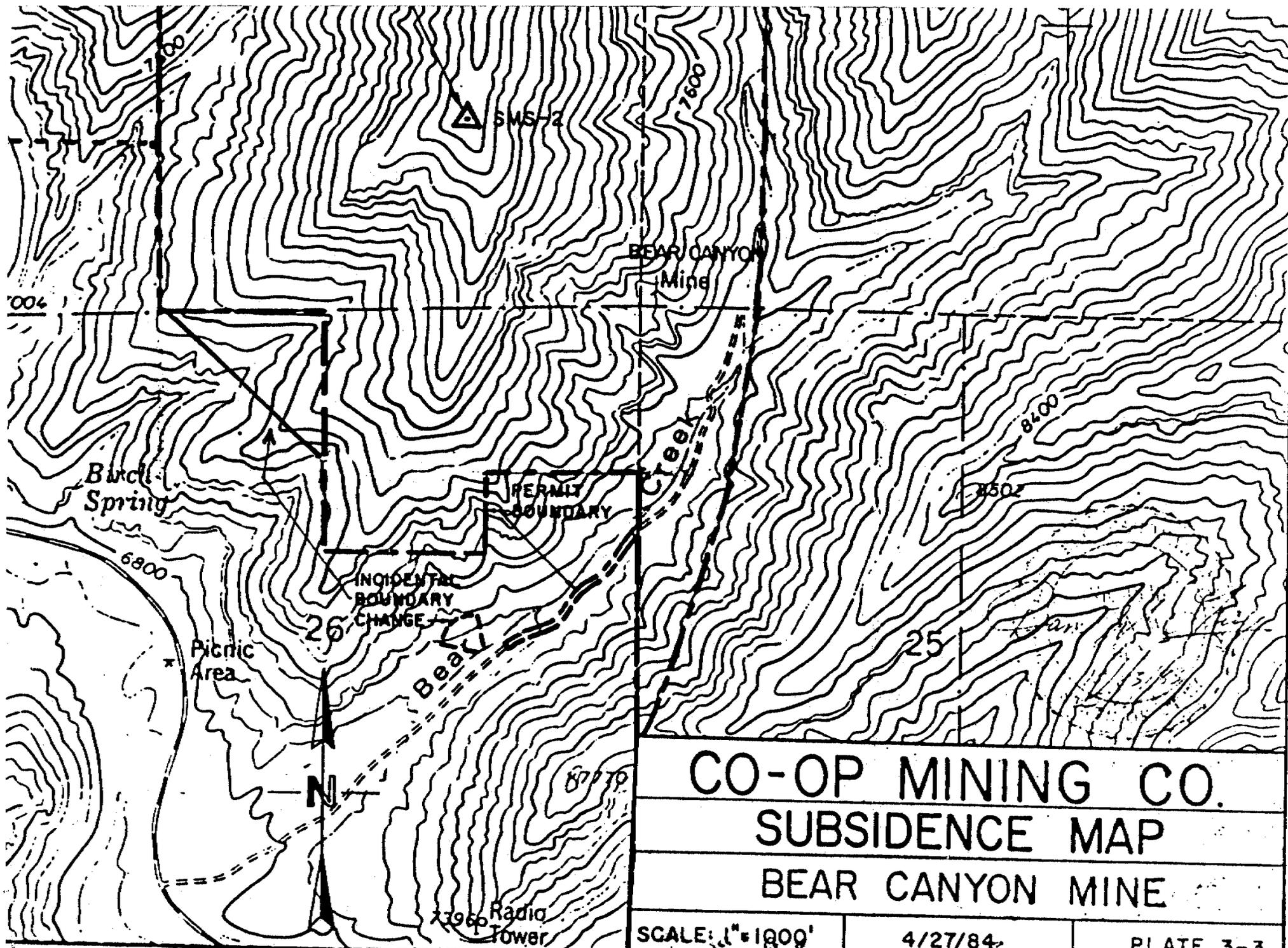
Upon approval of the Incidental Boundary Change, all plates in the MRP will be corrected to show the current Permit Boundary.

If I can be of any further assistance, please call.

Sincerely,

Melvin A. Coonrod  
Permitting and Compliance

**FILE COPY**



**CO-OP MINING CO.**  
**SUBSIDENCE MAP**  
**BEAR CANYON MINE**

SCALE: 1" = 1000'

4/27/84

PLATE 3-3

REVISED 8/11/82

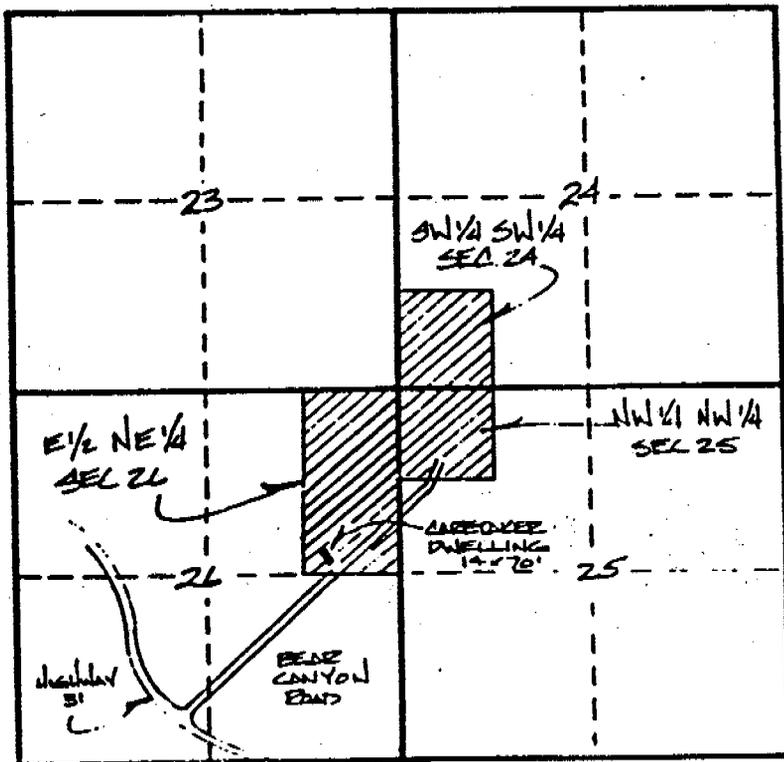
# PROPERTY DESCRIPTION

THE SW 1/4 OF THE SW 1/4, SECTION 24,  
T. 16 S., R. 7 E., S1B & M.

THE NW 1/4 OF THE NW 1/4, SECTION 25,  
T. 16 S., R. 7 E., S1B & M.

THE EAST 1/2 OF THE NE 1/4, SECTION 26,  
T. 16 S., R. 7 E., S1B & M

CONTAINING 160 ACRES TOTAL



T. 16 S., R. 7 E., S1B & M

KEY MAP



*gh*

### VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Co-Op Mining Co.  
Mailing Address P.O. Box 1245 Huntington, UT 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 94-35-1-1 dated 2/16, 1994.  
Cessation Order No. C \_\_\_\_\_ dated \_\_\_\_\_, 19\_\_\_\_.

Part 1 of 1 is  vacated  terminated because no abatement  
was required.

Part \_\_\_\_\_ of \_\_\_\_\_ is  vacated  terminated because \_\_\_\_\_

Part \_\_\_\_\_ of \_\_\_\_\_ is  vacated  terminated because \_\_\_\_\_

Date of service/mailling 5/24/94 Time of service/mailling 3:00  a.m.  p.m.

Permittee/Operator representative \_\_\_\_\_ Title \_\_\_\_\_

Signature Susan M. White Title Reclamation Specialist III  
Division of Oil, Gas & Mining

Signature Susan M. White

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

---ooOoo---

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

---ooOoo---

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.

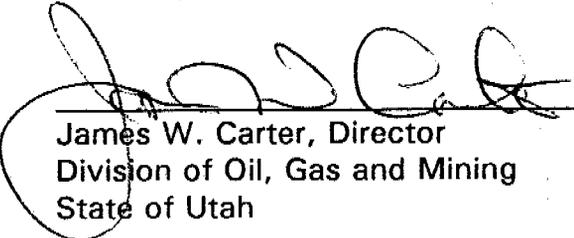
#### ORDER

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 30<sup>th</sup> 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

A handwritten signature in cursive script, reading "Janean Burns", is written over a solid horizontal line.

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

---ooOoo---

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 Cessation Order (CO). 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.

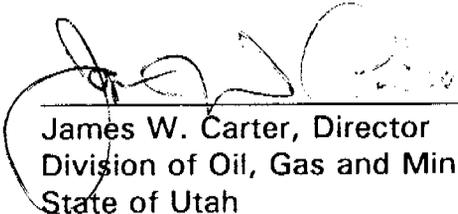
#### ORDER

NOW THEREFORE, it is ordered that:

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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 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

Michael Burns

**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 boxes for additional services requested.

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

3. Article Addressed to:  
 CO OF MINING CO  
 MR WENDELL OWEN  
 PO BOX 1245  
 HUNTINGTON UT 84528

4. Article Number:  
 Po74 978 409

Type of Service:  
 Registered  Insured  
 Certified Mail  COD  
 Express Mail  Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED

5. Signature - Address:  
 X

6. Signature - Agent:  
 X *Both Owen*

7. Date of Delivery: *JUN 1 1988*

8. Addressee's Address (ONLY if requested and fee paid)

SM DOGM ACT/015/025 N94-35-1-1

UNITED STATES POSTAL SERVICE  
 OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**  
 Print your name, address and ZIP Code in the space below.  
 • Complete items 1, 2, 3, and 4 on the reverse.  
 • Attach to front of article if space permits, otherwise affix to back of article.  
 • Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE \$300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH  
 NATURAL RESOURCES  
 OIL, GAS, & MINING  
 3 TRIAD CENTER SUITE 350  
 SALT LAKE CITY, UTAH 84180-1203

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

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article; endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
5. Save this receipt and present it if you make inquiry.

\* U.S.G.P.O., 1988-217-132

SM DOGM N94-35-1-1 ACT/015/025

Sent to	WENDELL OWEN	
Street and	CO OF MINING CO	
P.O. Box and ZIP Code	PO BOX 1245 HUNTINGTON UT 84528	
Postage	\$ 29	
Certified Fee	1.00	
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	\$ 30	
Postmark or Date		

PS Form 3800, June 1985

P 074 978 409  
 RECEIPT FOR CERTIFIED MAIL  
 NO INSURANCE COVERAGE PROVIDED  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)



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)

May 19, 1994

CERTIFIED RETURN RECEIPT REQUESTED  
P 074 978 409

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

Re: Finalized Assessment for State Violation #N94-35-1-1, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

Dear Mr. Owen:

The civil penalty for the above-referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalty with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,

Ronald W. Daniels  
Assessment Conference Officer

sm

Enclosure

cc: Bernie Freeman, OSM, AFO



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

COMPANY/MINE Co-Op Mining/Bear Canyon Mine NOV #N93-35-1-1

PERMIT # ACT/015/025 VIOLATION 1 of 1

Assessment Date 5/19/94 Assessment Officer Ronald W. Daniels

Nature of Violation:

Failure to follow the approved plan in sampling and analyzing sediment pond waste.

Date of Termination: Hindrance - no abatement prescribed.

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1)History/Previous Violations	<u>5</u>	<u>5</u>
(2)Seriousness		
(a) Probability of Occurrence	<u>        </u>	<u>        </u>
Extent of Damage	<u>0</u>	<u>0</u>
(b) Hindrance to Enforcement	<u>16</u>	<u>16</u>
(3)Negligence	<u>20</u>	<u>10</u>
(4)Good Faith	<u>16</u>	<u>16</u>
Total Points	<u>41</u>	<u>31</u>
TOTAL ASSESSED FINE		\$ <u>420.00</u>

**NARRATIVE:** (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

The operator made the argument for, and the assessment officer agreed that, the violation fell in the middle category of negligence. That is that the degree of fault involved indifference, lack of diligence, or lack of reasonable care on the part of the operator. Points are adjusted according to that category.



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

Nov Side

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)

April 22, 1994

CERTIFIED RETURN RECEIPT REQUESTED  
No. P 540 714 004

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

Re: Informal Hearing and Assessment Conference for State Violation N94-35-1-1, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

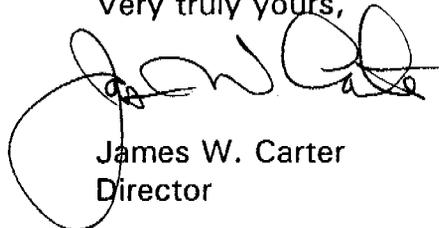
Dear Mr. Owen:

As per a written request from Kimly C. Mangum dated April 11, 1994, please be advised that the Informal Hearing and Assessment Conference on state violation N94-35-1-1, Co-Op Mining Company's Bear Canyon Mine has been established for Thursday, May 19, 1994, beginning at 9:00 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: K. Mangum, MEC  
L. Braxton  
J. Helfrich

HINDRANCE TO ENFORCEMENT VIOLATIONS  
INSPECTOR STATEMENT

Company/Mine Co-Op / Bear Canyon  
Permit # AOT 1015 / 225

NOV/CO # NP4-35-1-1  
Violation # 1 of 1

- A. HINDRANCE TO ENFORCEMENT (Answer for hindrance violations only such as violations concerning record keeping, monitoring, plans and certification).

Describe how violation of this regulation actually  OR potentially  (check one) hindered enforcement by DOGM and/or the public and explain the circumstances.

*Sediment pond waste was not analyzed according to methodology described in the permit.*

- B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

- Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation

*The operator stated that the laboratory was given Table 3K-1 for analysis of material. Laboratory changed methodology without approval of operator.*

- (1) Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.

Explanation

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

Explanation

*Potential harm, exceedance of selenium and boron. Operator didn't even look at results from testing.*

- Was the operator in violation of any conditions or stipulations of the approved MRP?

Explanation

*See above.*

- (i) Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation?

Explanation

- (i) Has DOGM or OSM cited a same or similar violation of this regulation in the past? If so, give the dates and the type of enforcement action taken.

Explanation

**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.

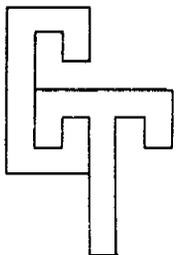
*no abatement*

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.
3. Was the submission of plans prior to physical activity required by this NOV? Yes\_\_\_ No\_\_\_ If Yes, explain.

*Susan M. White*  
Authorized Representative

\_\_\_\_\_  
Signature

*3/8/94*  
Date



# CHEMTECH

ANALYTICAL LABORATORY

6100 S. STRATLER  
MURRAY, UTAH 84107  
PHONE: (801) 262-7299  
FAX: (801) 262-7378

February 28, 1994

Co-op Mining  
Mr. Charles Reynolds  
P.O. Box 1245  
Huntington, Utah 84528

Dear Mr. Reynolds:

Enclosed is a list of methods which our lab uses for the parameters which you requested for analysis of your sediment pond "A" sample. Since we are certified by the State of Utah Health Department for environmental analysis, we are required to use EPA methodologies. For this reason, we are not usually set up to perform analyses by other non-EPA methods. This has been discussed with Patricia Barnes of the Division of Oil, Gas and Mining and a list of our methods was provided to her approximately one year ago.

The methodologies which we used should give comparable results to the methods that the Division of Oil, Gas and Mining list in their reference. Please note that the title on their reference states that these are only "Suggested Methods" and not required methods. If you have any further questions or need any further assistance, please call at (801) 262-7299.

Sincerely,

Rex Henderson  
President

Enclosure

CO-OP MINING COMPANY

P.O. Box 1245  
Huntington, Utah 84528



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

*Route to Ken & Susan  
then file #015/025 #2*

*1/24  
Ken  
to  
PGL*

RECEIVED

January 6, 1994

JAN 10 1994

DIVISION OF  
OIL, GAS & MINING

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

Ms. Grubaugh-Littig,

Re: Sediment Pond "A" Cleanout, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Emery County, Utah

*#2*

This letter is to inform the Division of the completion of the cleanout of Sediment Pond "A". Cleanout began on October 4, 1993 and was completed on December 6, 1993. Placement of material in the permanent storage area was completed on December 13, 1993. Enclosed is a statement from Mangum Engineering Consultants certifying the placement of the fill material. Also enclosed are the analysis results of two composite samples taken from the material while in the temporary storage area. Certification and analysis results will be included in the fourth quarter water monitoring report, along with the pond inspection report.

If you have any questions, please call Charles Reynolds at (801) 381-2450.

Thank You,  
*Wendell Owen*  
Wendell Owen,  
Resident Agent

Enclosure(s)  
sr



# CHEMTECH

ANALYTICAL LABORATORY

6100 S. SPATLER  
MURRAY UTAH 84107  
PHONE: (801) 262-7399  
FAX: (801) 262-7379

DATE: 12-08-93

TO: Co-op Mining  
P.O. Box 1245  
Huntington, Utah 84528

PROJECT: Sediment Pond "A"

DATE SAMPLED: 10-26-93

DATE SUBMITTED: 10-27-93

## CERTIFICATE OF ANALYSIS

SAMPLE ID: LAB#: PARAMETER	001 <u>U101392</u>	002 <u>U101393</u>	DATE ANALYZED
✓ pH Units	7.72	8.04	11-11-93
✓ Conductivity, uhmos/cm	478	498	11-11-93
✓ % Saturation	70.7	43.8	11-04-93
✓ Sieve % Rock	36.4	22.4	11-01-93
% Sand	46.7	64.4	11-01-93
% Silt/Clay	16.9	13.2	11-01-93
✓ SAR	2.17	2.34	--
Water Sol. Calcium as Ca, mg/Kg	237	187	11-12-93
Water Sol. Magnesium as Mg, mg/Kg	54.0	31.3	11-12-93
Water Sol. Sodium as Na, mg/Kg	142	131	11-12-93
Water Sol. TKN, mg/Kg	9,900	9,330	11-08-93
Water Sol. Nitrate as NO <sub>3</sub> -N, mg/Kg	3.27	3.71	12-04-93
Maximum Acid Potential, tons CaCO <sub>3</sub> /1000 tons soil	10.1	6.87	11-16-93
Neutralization Potential, tons CaCO <sub>3</sub> /1000 tons soil	49.6	11.1	11-16-93
Acid Base Potential, tons CaCO <sub>3</sub> /1000 tons soil	39.5	4.23	11-16-93
✓ % TOC	>32	>21	11-03-93
% Available Water Capacity	52.3	38.9	11-04-93
✓ Selenium as Se, mg/Kg	<4	<4	11-12-93
✓ Boron as B, mg/Kg	93.6	94.2	11-12-93
% Sulfur	0.323	0.220	11-02-93

NOTE: Sample temp. when submitted was 18.7°C not on ice.

Joel Workman

Mangum Engineering Consultants  
388 East Boynton Road  
Kaysville, Utah 84037

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

To Whom It May Concern,

I, Charles Reynolds, hereby certify that I have inspected and observed the placement of the sediment material which has been removed from Pond "A". Material has been placed in the approved storage area in accordance with Appendix 3-K of the Bear Canyon MRP (ACT/015/025). I certify that the fill material is stable.

*Charles Reynolds*

12/14/93

Appendix 3-K  
SEDIMENT POND MATERIAL

**SEDIMENT MATERIAL**

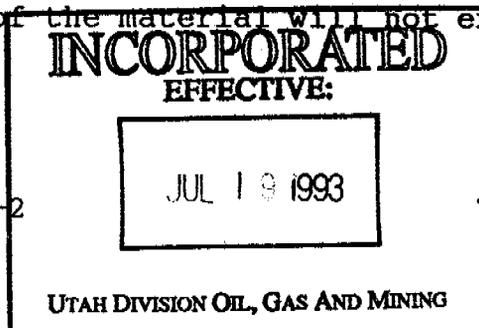
Over the life of the mine, sediment from the disturbed area will accumulate in sediment ponds "A", "B" and "C". In order to comply with requirements for available runoff storage, sediment materials will be removed from the ponds and taken to the sediment pond waste storage area shown on Plate 2-4C. Because the Trail Canyon Mine site (ACT/015/021) is a reclaimed site, sediment material removed from the Trail Canyon sediment pond will also be taken to the sediment pond waste storage area shown on Plate 2-4C.

The following items apply to placement of the sediment (fill) material:

- a. The sediment pond storage area lies within the disturbed area and all runoff passing through the area will pass through required sediment control structures (Plate 7-1).
- b. The disposal area is only moderately sloping and very stable with an overall slope of approx 1v: 6h. This slope will be maintained.
- c. The sediment pond fill material will be taken from the pond and placed in horizontal lifts not to exceed 24 in. The material will be compacted to reduce erosion. During the life of the mine the total depth of the material will not exceed 4 ft in any one location.

B.C.

3K-2



7/07/93

- d. Due to the nature of the site the material will be covered with coal storage for most of the calendar year. This will help improve and maintain stability and increase compaction.
- e. The fill shall be inspected by a qualified professional or registered professional engineer during placement and compaction of fill materials. A certified report will be provided to UDOGM within two weeks after each inspection. A copy of the report will be retained at the mine site.
- f. As the pond is being cleaned, temporary sediment material storage will be in the area shown on Plate 2-4C along the road and truck loading area.
- g. While located in the temporary storage area two composite random samples will be taken and tested following the laboratory methodologies, and constituents analyzed as listed in Table 3K-1.

## AMENDMENT TO

APPROVED Mining & Reclamation Plan  
Approved, Division of Oil, Gas & Mining

by HS DD#8 + JD date 12/16/92

Parameters	Reported As	Suggested Methods
pH		ASA Mono. No. 9, Part 2, (2 ed), 1982. Method 10-3.2, page 171. Perform pH on saturated paste.
Electrical Conductivity (ECe)	mmhos/cm 25°C	ASA Mono. No. 9, Part 2 (2 ed), 1982. Method 10-3.3, pages 172-173.
Saturation Percentage	%	SP = 100(total wt of water)/ (wt of oven-dry soil). Wts of water and soil known when making a saturated paste.
Particle Size Analysis (texture)	% sand, silt, clay	Hydrometer method. Black et al. 1965. Methods of soil analysis. ASA Mono No. 9, Part 1, method 43-5, pages 562-566.
Soluble Ca, Mg and Na	me/l	ASA Mono. No. 9, Part 2, (2 ed), 1982. Method 10-3.4. pages 173-174.
Sodium Adsorption Ratio	SAR calculated from soluble Ca, Mg & Na	$\frac{[Na^+]}{([Ca^{2+} + Mg^{2+}]/2)^{0.5}}$
Selenium	mg/Kg	Extraction by ASA Mono. No. 9, Part 2 (1 ed), 1965. Method 80-3.2, page 1122. Analyze by Hydride generation for AA or ICP. ASA Mono. No. 9, Part 2 (2 ed), 1982. Method 3-5.5, pages 59-61.

Table 3K-1 Analytical Parameters for Overburden

3K-4

AMENDMENT TO

12/91

APPROVED Mining & Reclamation Plan  
Approved, Division of Oil, Gas & Mining

by HS DO#8 + TD date 12/16/92

Parameters	Reported As	Suggested Methods
Total N	%	ASA Mono. No. 9, Part 2 (2 ed), 1982. Method 31-3, pages 610-616.
Nitrate-N	mg/Kg	ASA Mono No. 9, Part 2 (2 ed), 1982. Methods 33-4.1, pages 643-645; 33-8.3, pages 679-682 or Sims J. R., and G. D. Jackson. 1977. Soil Sci. Soc. Am. Proc. 35:603-607.
Boron	mg/Kg	ASA Mono No. 9, Part 2 (2 ed), 1982. Method 25-9.1, page 443 for extraction and Method 25-5, pages 443-446 for analysis.
Maximum Acid Potential	%	US EPA. 1978. EPA - 600/2-78-054. Method 3.2.4, Page 51.
Neutralization Potential	%	US EPA. 1978. EPA - 600/2-28-054. Method 3.2.3, page 47.
Organic Carbon	%	ASA Mono No. 9, Part 2 (2 ed), 1982. Method 29-3.5.3, pages 571-573.
Exchangeable Sodium*		ASA Mono No. 9, Part 2 (2 ed), 1982. Method 13-4.4, pages 238-241. Using Flame Emission and using extractates in method 8-3, page 152.
Available Water Capacity	in/in	USDA SCS Soil Survey Investigation Report No. 1, Method 4C1, page 24.

Table 3K-1 Analytical Parameters for Overburden (Cont)

3K-5

**AMENDMENT TO**

12/91

**APPROVED** Mining & Reclamation Plan  
 Approved, Division of Oil, Gas & Mining

by HS JD #8 + JD date 12/16/92

Parameters	Reported As	Suggested Methods
Rock Fragments	% Volume	USDA SCS Soil Survey Investigation Report No. 1, Method 3B, Page 18.

Acid/Base Account AB = Total Neutralizing Potential minus Total Acid Potential.

\*If samples have a SAR greater than 12 for clay textured soils or greater than 15 for sandy textured soils, then exchangeable sodium % should be analyzed.

1146R01-22

Table 3K-1 Analytical Parameters for Overburden (Cont)

3K-6

**AMENDMENT 1 TO 1**

**APPROVED** Mining & Reclamation Plan  
Approved, Division of Oil, Gas & Mining

by HS TD#8 + TD date 12/16/92





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)

March 21, 1994

CERTIFIED RETURN RECEIPT  
P 074 978 396

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

Re: Proposed Assessment for State Violation No. N94-35-1-1, Co-Op Mining Company of Utah, 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 on February 16, 1994, by Inspector Susan White. 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 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

sm

Enclosure

cc: Bernie Freeman, OSM

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

COMPANY/MINE Co-op Mining Company/Bear Canyon Mine      NOV #N94-35-1-1

PERMIT # ACT/015/025

VIOLATION 1 OF 1

ASSESSMENT DATE 3/21/94      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 3/21/94

EFFECTIVE ONE YEAR TO DATE 3/21/93

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N93-35-3-1</u>	<u>10/03/93</u>	<u>1</u>
<u>N93-35-7-3 1, 2, 3</u>	<u>03/06/94</u>	<u>3</u>
<u>N93-35-5-1</u>	<u>03/06/94</u>	<u>1</u>

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 5**

**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? Hindrance

**A. Event Violations Max 45 PTS**

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

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

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

- 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** \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

**B. Hindrance Violations MAX 25 PTS**

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

RANGE 0 - 25

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

**ASSIGN HINDRANCE POINTS** 16

PROVIDE AN EXPLANATION OF POINTS

Information revealed that the sediment pond waste was not analyzed according to the methodology referenced in the approved permit.

**TOTAL SERIOUSNESS POINTS (A or B)** 16

**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 20

**PROVIDE AN EXPLANATION OF POINTS**

The permittee was in violation of a specific permit condition and the exceedence of selenium and boron were not observed by the operator until the time of the inspection, therefore, a greater degree of negligence is assigned.

**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

V. ASSESSMENT SUMMARY FOR N94-35-1-1

I.	TOTAL HISTORY POINTS	<u>5</u>
II.	TOTAL SERIOUSNESS POINTS	<u>16</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-</u>
	TOTAL ASSESSED POINTS	<u>41</u>
	TOTAL ASSESSED FINE	<u>\$ 640.00</u>

sm

P 074 978 391

Wendell Owen  
Co op Mining  
PO BOX 1245  
Huntington UT 84528

DOG M SM N94-35-1-1 ACT/015/025

29  
100

100

229

2-24-94

**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: CO OP MINING CO MR WENDELL OWEN PO BOX 1245 HUNTINGTON UT 84528 <i>Beth Owen</i>	4. Article Number P 074 978 391
5. Signature - Address X	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
6. Signature - Agent X	Always obtain signature of addressee or agent and <u>DATE DELIVERED</u> .
7. Date of Delivery FEB 25 1994	8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 \* U.S.G.P.O. 1988-212-865  
DOG M SM ACT/015/025 N94-35-1-1

DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE  
OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**

- Print your name, address and ZIP Code in the space below.
- Complete Items 1, 2, 3, and 4 on the reverse.
  - Attach to front of article if space permits, otherwise affix to back of article.
  - Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE, \$300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH  
NATURAL RESOURCES  
OIL GAS & MINING  
3 TRIAD CENTER, SUITE 350  
SALT LAKE CITY, UTAH 84180-1203

.....



NO. N 94-35-1-1

To the following Permittee or Operator:

Name Co-OF MINING CO.  
 Mine BEAR CANYON  Surface  Underground  Other  
 County EMERY State UT Telephone (801) 381-2450  
 Mailing Address PO BOX 1245 HUNTINGTON, UT 84528  
 State Permit No. ACT/015/025  
 Ownership Category  State  Federal  Fee  Mixed  
 Date of inspection 2/16/94, 19\_\_\_\_  
 Time of inspection 9:00  a.m.  p.m. to 2:00  a.m.  p.m.  
 Operator Name (other than Permittee) \_\_\_\_\_  
 Mailing Address \_\_\_\_\_

notice of violation

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 P 074 978 391  
 RETURN RECEIPT REQUESTED

Date of service/ mailing 2/16/94 Time of service/ mailing 5:00  a.m.  p.m.  
WENDELL OWEN RESIDENT AGENT/MINE MANAGER  
 Permittee/Operator representative Title  
 Signature SUSAN WHITE RECLAMATION SPECIALIST/SIGLE  
 Division of Oil, Gas & Mining representative Title #33  
 Signature Identification Number

SEE REVERSE SIDE

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



NOTICE OF VIOLATION NO. N 94-35-1-1

Violation No. 1 of 1

Nature of violation **FAILURE TO FOLLOW THE APPROVED PLAN. 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.**

Provisions of act, regulations or permit violated  
**R645-300-143**

Portion of operation to which notice applies  
**APPENDIX 3-K, SEDIMENT POND MATERIAL, TABLE 3K-1 OF THE APPROVED PERMIT.**

Remedial action required (including any interim steps)  
**NONE**

Abatement time (including interim steps)  
**NONE**