



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 18, 1995

CERTIFIED RETURN RECEIPT
P 074 976 201

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

Re: Proposed Assessment for State Violation No. C95-26-1-1, 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, Bill Malencik on April 13, 1995. 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:

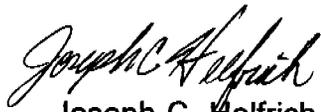
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding 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
C95-26-1-1
ACT/015/025
May 18, 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

CO #C95-26-1-1

PERMIT # ACT/015/025

VIOLATION 1 OF 1

ASSESSMENT DATE 5/16/95

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 5/16/95

EFFECTIVE ONE YEAR TO DATE 5/16/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

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?
Activity outside approved permit area, Conducting activities without approvals, Environmental harm by statute and use of coal waste as road fill.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? occurred

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

See attached inspection report for additional details.

- 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 20

PROVIDE AN EXPLANATION OF POINTS

The damage would extend off of the disturbed area as well as the operators permit area. Coal refuse material was deposited on a private road that was not under the legal control of the Bear Canyon Mine. The patented landowner of record were coal waste was stored is owned by John Brown, Mr. Brown also owns fee land where the rail Co train load is located.

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 _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 40

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 25

PROVIDE AN EXPLANATION OF POINTS

See also attached inspection report. The violation occurred as a result of reckless activities by the operator the permittee should have been aware any coal waste that was loaded and or transported offsite and stored outside the permit area. This agency was advised by Co-Op Mining co that the marketing personnel took the action on coal waste without the knowledge of other Co-Op employees. The violation also occurred as a result of the operator not complying with a specific permit condition that is proper storage of non-coal waste as described in Co-Op Mining's approved mining and reclamation plan.

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

To be evaluated on termination of violation.

V. ASSESSMENT SUMMARY FOR

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>40</u>
III.	TOTAL NEGLIGENCE POINTS	<u>25</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>65</u>
	TOTAL ASSESSED FINE	<u>\$ 1800.00</u>

blb

COMPANY/MINE Co-Op/ Bear Canyon mine

NOV/CO # 95-26-1-1

PERMIT # Act 0151025

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. *By statute, refer to Utah Coal Rules R645, 400-312.*
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- i. Other. *Coal waste makes a poor road fill and road base because of engineering characteristics of such material. See inspection report for additional details.*

2. Has the event occurred? Yes X No _____

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

See inspection report for additional details

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes _____ No _____
 Does: Yes X No _____

Would: Yes _____ No _____
 Does: Yes X 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.

Additional refuse would have been deposited off the approved permit area and on to a private road that was not under the legal control of the Bear Canyon Mine. The patented land owner of record where coal waste was stored is owned by John Brown. Mr. Brown also owns the land where the Rakeo Truistoad is located.

Potential damage off the disturbed area. Yes X No _____

Potential damage off the permit area. Yes X 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.

(X) 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.

See inspection report for additional details. I am of the opinion that Mr. Owen should have been aware of any coal waste that was loaded, transported off-site and stored outside the permit area. Have been advised by Mr. Reynolds that the marketing personnel took the action on coal waste issue without Mr. Owen or Reynolds knowledge.

() 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.

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.

Not applicable at this time

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Yes the operator, associates and contractors have equipment and personnel to complete the abatement

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

Due date for the reclamation plan to be submitted and approved by the undersigned is 4/30/95

4/18/95

DATE



AUTHORIZED REPRESENTATIVE

COMMERCIAL TESTING & ENGINEERING CO.

GENERAL OFFICES: 1919 SOUTH HIGHLAND AVE., SUITE 210-B, LOMBARD, ILLINOIS 60148 • TEL: 708-963-9300 FAX: 708-963-9306

Member of the SGS Group (Société Générale de Surveillance)

PLEASE ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1020, HUNTINGTON, UT 84528
TEL: (801) 863-2311
FAX: (801) 863-2436

June 28, 1995

CO-OP MINE
P.O. Box 1245
Huntington UT 84528

Sample identification by
CO-OP MINE

Kind of sample reported to us Coal

Sample taken at Co-op

High Ash Coal

Sample taken by Co-op

1 Bag
20.25 lbs.

Date sampled June 22, 1995

Date received June 27, 1995

Analysis Report No. 59-182297

SHORT PROXIMATE ANALYSIS

	<u>As Received</u>	<u>Dry Basis</u>		
% Moisture	9.31	XXXXX		
% Ash	32.58	35.92		
Btu/lb	7647	8432	MAF	13159
% Sulfur	0.54	0.59		

FUSION TEMPERATURE OF ASH, (°F)

	<u>Reducing</u>	<u>Oxidizing</u>
Initial Deformation (IT)	XXXX	XXXX
Softening (ST)	XXXX	XXXX
Hemispherical (HT)	XXXX	XXXX
Fluid (FT)	XXXX	XXXX

Respectfully submitted,
COMMERCIAL TESTING & ENGINEERING CO.

Manager, Huntington Laboratory



OVER 40 BRANCH LABORATORIES STRATEGICALLY LOCATED IN PRINCIPAL COAL MINING AREAS THROUGHOUT THE WORLD

F-495/069/95
Original Watermarked For Your Protection

TERMS AND CONDITIONS ON REVERSE



COMMERCIAL TESTING & ENGINEERING CO.

GENERAL OFFICES: 1919 SOUTH HIGHLAND AVE., SUITE 210-B, LOMBARD, ILLINOIS 60148 • TEL: 708-953-9300 FAX: 708-953-9306

SINCE 1908

Member of the SGS Group (Société Générale de Surveillance)

PLEASE ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1020, HUNTINGTON, UT 84528
TEL: (801) 653-2311
FAX: (801) 653-2436

June 1, 1995

CO-OP MINE
P.O. Box 1245
Huntington UT 84528

Sample identification by
CO-OP MINE

Kind of sample reported to us	Coal	
Sample taken at	Co-op	CW-2 1 Bag 54.00 lbs.
Sample taken by	Co-op	
Date sampled	May 31, 1995	
Date received	May 31, 1995	

Analysis Report No. 59-181145

SHORT PROXIMATE ANALYSIS

	<u>As Received</u>	<u>Dry Basis</u>	
% Moisture	5.79	xxxxxx	
% Ash	33.81	35.89	
Btu/lb	8209	8713	MAF 13591
% Sulfur	0.43	0.46	

Respectfully submitted,
COMMERCIAL TESTING & ENGINEERING CO.

[Signature]
Manager, Huntington Laboratory



OVER 40 BRANCH LABORATORIES STRATEGICALLY LOCATED IN PRINCIPAL COAL MINING AREAS, TIDEWATER AND GREAT LAKES PORTS, AND RIVER LOADING FACILITIES

F-485/059/95
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TERMS AND CONDITIONS ON REVERSE

CHECK DATE: 10-OCT-1995

Oil CHECK NUMBER: 22738

INVOICE DATE	INVOICE NO.	DESCRIPTION	AMOUNT	DISCOUNT OR DEDUCTION	NET AMOUNT
31-aug-1995	C952611	BEAR091411522120914 ACT/015/025	600.00	0.00	600.00
			600.00	0.00	600.00

RECEIVED
OCT 12 1995
DIV. OF OIL, GAS & MINING

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. 22738²²⁷³⁸ CHECK DATE
10-OCT-1995

AMOUNT \$ *****600.00

PAY *SIX HUNDRED & 00/100 DOLLARS*

TO THE ORDER OF

5880
STATE OF UTAH/OIL, GAS
355 WEST NORTH TEMPLE
3 TRIAD CENTER STE 350
SALT LAKE CITY UT 84180-1203

C. J. Austin

⑈022738⑈ ⑆124001545⑆

911675038⑈

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

---oo0oo---

IN THE MATTER OF THE APPEAL OF FACT OF VIOLATION C95-26-1-1, CO-OP MINING COMPANY, BEAR CANYON MINE, EMERY COUNTY, UTAH	: : : :	FINDINGS, CONCLUSIONS AND ORDER CAUSE NO. ACT/015/025
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---oo0oo---

On August 2, 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 Cessation Order ("CO"). The following individuals attended:

Presiding: James W. Carter
Director

Petitioner: Eldon Kingston
Charles Reynolds
Wendell Owen
Kimly Mangum

Division: Joe Helfrich
William Malencik

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 CO C95-26-1-1, 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. Violation C95-26-1-1 was written for: "Failure to comply with the approved permit on the matter of the disposal of the Bear Canyon coal mine waste; Failure to conduct coal mine operations in compliance with the terms and conditions of the permit and requirements of the State of Utah coal mine program; and Failure to place coal mine waste within a permit area as approved by the Division."

4. Coal and non-coal materials were removed from the designated coal waste storage area at the Bear Canyon mine and transported by CTC trucks to the private road leading to the Railco train loadout. The coal waste materials were unloaded and spread out and used to widen the Railco road.

5. Co-Op asserts that the materials were saleable and therefore not "coal mine waste," and that the emplacement of the materials as road-base was performed by others not in the control of Co-Op.

6. Abatement of the violation, which required removal of the materials from the roadway and emplacement in an approved coal-waste disposal, was accomplished within the time set for abatement, as properly modified.

CONCLUSIONS OF LAW

1. Based upon the fact that Co-Op Mining Company placed the materials in question in its approved coal waste storage area, coupled with the fact that the materials were not used for fuel purposes, the Division concludes that Co-Op allowed coal waste materials to

be removed from its permit area in violation of the regulatory requirement that coal mining wastes be disposed of only in a permitted facility.

ORDER

NOW THEREFORE, it is ordered that:

1. Violation C95-26-1-1 be upheld.
2. Because there exists no evidence of actual environmental damage, the damage points are reduced to 10 to reflect a moderate likelihood of actual environmental damage. Because the permittee lacked direct control over the persons responsible for placing the coal wastes outside a permitted facility, the negligence points are reduced to 15.
3. Abatement constituted normal compliance, and 5 good faith points are awarded.
4. The finalized assessment of \$600.00, resulting from the Assessment Conference of August 2, 1995, is due and payable to the Division 30 days from the date of this Order.
5. 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 31st day of August, 1995.



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 first-class mail, postage prepaid, on the 1st day of September, 1995, to the following:

Eldon Kingston
Co-Op Mining Company
3753 S. State Street
Salt Lake City, Utah 84115

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

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

Kimly Mangum
Mangum Engineering Consultants
388 East Boynton Road
Kaysville, Utah 84037





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

Michael O. Leavitt
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Ted Stewart
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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 Side

July 11, 1995

CERTIFIED RETURN RECEIPT REQUESTED
No. P 074 977 568

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

Re: Rescheduling of Informal Hearing and Assessment Conference for State
Violation C95-26-1-1, Co-Op Mining Company, Bear Canyon Mine,
ACT/015/025, Folder #5, Emery County, Utah

Dear Mr. Owen:

Due to a scheduling conflict, please be advised that the Informal Hearing and Assessment Conference on state violation C95-26-1-1, Co-Op Mining Company's Bear Canyon Mine has been rescheduled for Wednesday, August 2, 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





UTAH
NATURAL RESOURCES
Oil, Gas & Mining

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

Review To Cheryl Reynolds

VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name W. J. Malencik Co.

Mailing Address P.O. Box 1299, Huntington, UT 84325

State Permit No. Act 00125

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

Notice of Violation No. N N/A dated N/A, 19 .

Cessation Order No. C 95-26-1-1 dated April 13, 19 95.

Part 1 of 1 is vacated terminated because the permittee complied with the requirements of the cessation order and the abatement measures, according due dates

Part of is vacated terminated because N/A

Part of is vacated terminated because N/A

Date of service/mailling June 30, 1995

Time of service/mailling 11:45 a.m. p.m.

Cheryl Reynolds
Permittee/Operator representative

Cheryl Reynolds
Title

W. J. Malencik
Signature

Reclamation Specialist
Title

W. J. Malencik
Division of Oil, Gas & Mining

Cheryl Reynolds
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)

June 19, 1995

CERTIFIED RETURN RECEIPT REQUESTED
No. P 074 977 564

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

Re: Informal Hearing and Assessment Conference for State Violation C95-26-1-1,
Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery
County, Utah

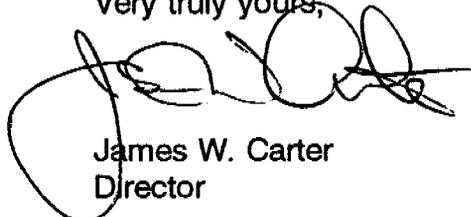
Dear Mr. Owen:

As per your written request dated May 31, 1995, please be advised that the Informal Hearing and Assessment Conference on state violation C95-26-1-1, Co-Op Mining Company's Bear Canyon Mine has been established for Wednesday, July 19, 1995, 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: L. Braxton
J. Helfrich
PFO



8/2/95

- Eldon Kingston
- Charles Reynolds
- Wendell Owen
- Kimly Mangum
- Joe Helfrich
- Bill Malencik

- CO issued April 13, 1995 "Coalmine waste"

- * - Disagreement as to "Coalmine waste" definition
 - ~~Go~~ says rock is saleable
 - DORM says it must be disposed of in accordance w/ permit

- Modifications

1 - extend time to abate

2 - allow removal to CU spur OR
Bear Canyon

3 - extend time to abate

- * Does "saleability" enter in to definition of coal waste?

Assessment

Damage - not toxic, based on tests of floor and roof rock & seam

- Argument → DDM assumed max. damage to environment because of lack of information

→ Mangum argues there was no potential for damage

- No evidence of actual damage

→ damage is injury, not just impact

* What is meaning of damage

Negligence - lower

Good faith

- No points because date was extended

→ Does extension automatically negate points

Extensions for

- 1) weather
- 2) arranging permitted area to take it to
- 3) plans required for cleanup

Final date only moved over to June 30,
and was met in normal compliance
manner

- Charles -

① - All material generated on site is handled ^{by Coop} in accordance w/ plan

- Material from road had 33% ash content (67% coal)

- They sell this stuff, blended with low ash

→ Marketable product. ^{not responsible} 8600 BTU
33% Ash

② At what point does Coop lose control over coal or coal waste?

Is there a difference based on whether its coal or coal waste?

Bill → coal waste because it came from ~~the~~ coal waste pile and because it contained non-coal waste (Did Coop therefore designate it as waste?)

* Does ODOM lose jurisdiction when product leaves the site

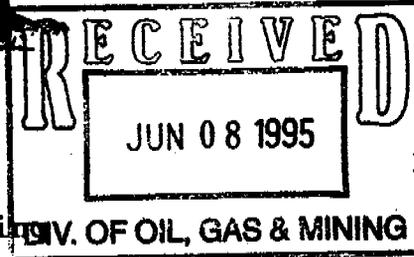
- Does non-coal waste matter

CO-OP MINING COMPANY

low

P.O. Box 1245
Huntington, Utah 84528

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



May 31, 1995

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

Mr. Carter,

Re: Request for Hearing, Violation C95-26-1-1, Bear Canyon Mine, ACT/015/025, Emery County, Utah

Co-Op Mining Company requests an informal hearing on the fact of violation and an assessment conference for violation C95-26-1-1.

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

Thank You,

Wendell Owen,
Resident Agent

CR



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 C. G. Mining Company

Mailing Address P.O. Box 1240, Huntington, UT 84225

State Permit No. Act 01125

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

Notice of Violation No. N N/A dated _____, 19____.

Cessation Order No. C 35-265-1-1 dated 4/13/95, 19____.

Part 1 of 1 is modified as follows: the coal waste refuse may also

be placed at an approved permitted active waste pile

Reason for modification is such as an approved subject to the following
conditions: (1) Approval by the waste pile permittee (M/C)

Part _____ of _____ is modified as follows: (2) Approval by waste pile operator/owner

(3) Approval of the Division of Oil, Gas & Mining

Reason for modification is (4) Other conditions specified at our meeting
to meeting as a result of the field meeting of 3/4/95.

Part _____ of _____ is modified as follows: _____

Date of service/ mailing 5/4/95

Time of service/ mailing 7:30 a.m. p.m.

Date of inspection 4/4/95

Permittee/Operator representative _____

Title _____

Signature _____

Division of Oil, Gas & Mining _____

Title _____

Signature _____

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

DOGM/MVC-1

an equal opportunity employer

Rev. 12/86 001059



MODIFICATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name U. Spallone Company

Mailing Address PO Box 1240, Huntington, UT 84025

State Permit No. Act 017620

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

Notice of Violation No. N 1113 dated _____, 19 ____.

Cessation Order No. C 35-26-1-1 dated 4/13/95, 19 ____.

Part 1 of 1 is modified as follows: Relative to minimum standards etc. to

reduce coal waste and other per approved plan in

Reason for modification is modified from May 29, 1995 to June 12, 1995. This is

to both items as shown on the official record and

Part _____ of _____ is modified as follows: Order both items listed B¹ and B²

The reason the authors date is being appear

Reason for modification is unique and not site specific at

the Bunk area.

Part _____ of _____ is modified as follows: _____

Date of service/ mailing May 29, 1995

Time of service/ mailing 9 a.m. p.m.

Date of inspection April 4, 1995

Charles Reynolds
Permittee/Operator representative

Christine Christensen
Title

Signature

Walter H. Hensel
Division of Oil, Gas & Mining

Act. Insp.
Title

Signature

5-25-95 gpt

To: Bill Malencik
Utah Division of Oil, Gas & Mining

From: Charles Reynolds
Co-op Mining Co.

RE NOV 895-26-1-1

Co-op Mining Company wishes to request an extension on the abatement time for material removal which has been delayed due to adverse weather conditions. Co-op request the date be extended to June 12, 1995. The other abatement periods for reclamation will still be adequate.

Sincerely,
Charles Reynolds
Environmental Coordinator.



got

NO. C 95-26-1-1

cessation order

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 April 4, 1995, 19

Time of inspection 08:00 a.m. p.m. to 04:00 a.m. p.m.

Operator Name (other than Permittee) _____

Mailing Address _____

Under authority of the Utah Coal Mining & 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 that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, *Utah Code Annotated*, you are ordered to **cease immediately** the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this order shall continue while this order is in effect. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that **this order does** **does not** **require cessation of mining** expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This order 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 Division of Oil, Gas & Mining.

Date of service April 13, 1995

Time of service 1:15 a.m. p.m.

Charles Reynolds
Permittee/Operator representative

Environmental Coordinator
Title

Signature Wm. J. Malencik
Wm. J. Malencik
Division of Oil, Gas & Mining representative

Reclamation Specialist
Title

Signature _____

#26
Identification Number

SEE REVERSE SIDE

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

IMPORTANT — READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Board of Oil, Gas & Mining assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the Division of Oil, Gas & Mining will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be finalized unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violations within the time set for abatement or for meeting any interim step, you will be assessed a minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring you to cease surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

An informal public hearing may be held at or near the mine site if this notice requires cessation of mining, expressly or in practical effect. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice

requires cessation of mining. Please review this finding and inform the authorized representative if you disagree with it. (See UMC/SMC 843.15(a).)

If this notice requires cessation of mining, it will expire within 30 days from date you are notified unless an informal public hearing is held or waived, or the condition, practice or violation is abated within the 30-day period. You will be notified of date, time and location of hearing. **R645-400-350 et seq**

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice or assessment before the Board of Oil, Gas & Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary
Board of Oil, Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in UMC 845.19 of the board's regulations.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply. **R645-401-800 et seq**

For further information, consult Section 40-10-20, 21, 22 and 23, *Utah Code Annotated*, UMC/SMC Parts 843, 845, 900 or contact the Division of Oil, Gas & Mining at (801) 538-5340.

R645-400-300 et seq

R645-401 et seq



CESSATION ORDER NO. C 95-26-1-1

Violation No. 1 of 1

Nature of condition, practice or violation

Utah Coal Mine Law (UCA) Title 40, Chapter 10, 40-10-22 (1)(b).
Utah Coal Rules, R645-300-143, R645-301-528.320, & R645-400-310.

Provisions of act, regulations or permit violated

- *Failure to comply with the approved permit on the matter of the disposal of the Bear Canyon coal mine waste.
- *Failure to conduct coal mine operations in compliance with the terms and conditions of the permit, and requirements of the State of Utah coal mine program.
- *Failure to place coal mine waste within a permit area as approved by
 Check appropriate box the Division.
 - Condition, practice or violation is creating an imminent danger to health or safety of the public.
 - Permittee/Operator is/has been conducting mining activities without a permit.
 - Condition, practice or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
 - Permittee or Operator has failed to abate Violation(s) No. _____ included in Notice of Violation No. N _____ within time for abatement originally fixed or subsequently extended.

Operation(s) to be ceased immediately

- A) Cease storing and disposing of coal mine waste in a manner and in a place different from that as specified in the approved permit. The approval is defined in Chapter 3.5.8, pages 3-57 and 3-58 of the approved amended mining and reclamation plan.
- B) Remove refuse from unapproved area and dispose and store refuse as designated in the Division approved plan.
Affirmative obligation(s) and abatement time (if applicable)
- C) Submit reclamation plan to the Division for approval and reclaim the unapproved refuse disposal area.

- A) April 13, 1995.
- B) April 20, 1995.
- C) May 19, 1995.

WHITE-DOG M YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE



UTAH NATURAL RESOURCES Oil, Gas & Mining

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

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To Joe Phelan 4/25 From Bill

Co. _____ Co. _____

Dept. _____

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 (Bear Canyon)

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

Notice of Violation No. N _____ dated _____, 19 _____.

Cessation Order No. C 95-26-1-1 dated 4-13, 19 95.

Part 1 of 1 is modified as follows: ABATEMENT TIMES

ITEM	FROM	TO DATE	COMMENTS
A	April 13, 1995	April 13, 1995	No Change
B	April 20, 1995	May 29, 1995	Remove coal waste & store per approved MRP.
B ¹		On or before May 29, 1995	When refuse/coal waste is removed, notify Price Field office for site inspection before commencing reclamation.
C	May 19, 1995	June 30, 1995	Complete reclamation per approved plan.
C ¹		April 30, 1995	Submit reclamation plan to Price Field office for approval.

Date of service/mailling April 18, 1995 Time of service/mailling 12:00 a.m. p.m.

Date of inspection April 4, 1995

Charles Reynolds
Permittee/Operator representative

Environmental Coordinator
Title

Mailed from DOGM Price Office
Signature

Wm. J. Malencik
Division of Oil Gas & Mining

Reclamation Specialist
Title

Signature