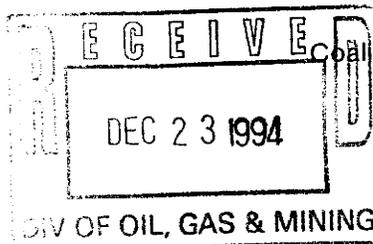


CO-OP MINING COMPANY

P.O. Box 1245
Huntington, Utah 84528



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

CC: JWG
CPB
JCH
orig. File

December 16, 1994

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

Mr. Carter,

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

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

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

Thank You,

Wendell Owen,
Resident Agent

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

---ooOoo---

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

:
---ooOoo---

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

Presiding: James W. Carter
Director

Petitioner: Charles Reynolds
Kimly Mangum

Division: Peter Hess

Joe Helfrich
Assessment Officer

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

FINDINGS OF FACT

1. Notice of this hearing was properly given.
2. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

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

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

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

CONCLUSIONS OF LAW

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

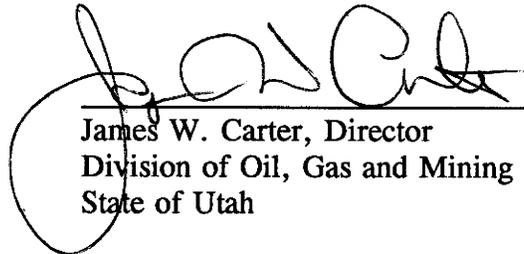
ORDER

NOW THEREFORE, it is ordered that:

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

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

SO DETERMINED AND ORDERED this 17th day of April, 1995.


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

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 first-class, postage prepaid, on the 18 day of April 1995, to the following:

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

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

Janice B. Hunt