

February 6, 2006

TO: Mary Ann Wright, Associate Director of Mining

THRU: D. Wayne Hedberg, Permit Supervisor

FROM: Peter H. Hess, Environmental Scientist III/Engineering

RE: Requirements for R645-400-327, Circumstances Relative to Abatement Period Extending Beyond 90 Days for N06-46-1-1, Failure to Collect Baseline Water Monitoring Information During Third Quarter of 2005, CO-OP Mining Company, Bear Canyon Mines, C/015/0025

The following document is necessary to justify the need for extending the time frame necessary to abate State violation N06-46-1-1, Failure to Collect Baseline Water Monitoring Data During August 2005 beyond the ninety-day abatement period mandated by R645-400-322.

During the hydrologic review of the third quarter of 2005 surface and ground water monitoring data for the Bear Canyon Mines permit area, DOGM hydrologist Jim Smith determined that the Permittee had failed to analyze for the baseline parameters required in the mining and reclamation plan, (Refer to Table 7-14, Water Monitoring Matrix, Operational Phase of Mining, Chapter 7, page 7-53 of the MRP). As noted on Page 7-53, footnote 3 states that "baseline parameters taken in August of year 5 prior to each permit renewal". Thus, the operational monitoring regime requires that the Permittee analyze for the additional baseline parameters required in Tables 7-13 and 7-17 respectively (pages 7-52 and 7-59). The additional parameters include analyses for the following dissolved ions:

- 1) aluminum
- 2) arsenic
- 3) boron
- 4) cadmium
- 5) copper
- 6) lead
- 7) molybdenum
- 8) nitrogen
- 9) nitrite
- 10) nitrate

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- 11) phosphate
- 12) selenium, and
- 13) zinc.

Low flow conditions, which are experienced in the permit area during the month of August, are necessary to provide similar monitoring conditions necessary for analytical comparison. Thus, **the abatement period for N06-46-1-1 must be extended through August 31, 2006.**

R645-400-328.300 requires that the Director or designee of the Director review this request to extend the abatement period beyond the ninety days and concur, with documentation, that the period beyond the ninety days normally required is justified.

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notice of violation

NO. NO6-46-1-1
"Failure to Collect Baseline Water Monitoring Data During August 8, 2005"

To the following Permittee or Operator:

Name CO-OP Mining Company

Mine Bear Canyon Mines Surface Underground Other

County Emery State Utah Telephone (435) 687-2450

Mailing Address P.O. Box 1245, Huntington, UT 84526

State Permit No. C/015/025

Ownership Category State Federal Fee Mixed

Date of inspection 2/1/2006 19

Time of inspection 8 a.m. p.m. to a.m. p.m.

Operator Name (other than Permittee) NA

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.

Date of service/ mailing Feb. 7, 2006

Time of service/ mailing 9⁴⁵ a.m. p.m.

Mark Reynolds
Permittee/Operator representative

Permitting Co-ordinator
Title

Mailed/Faxed from PFO/DOG M
Signature

Peter Hess
Division of Oil Gas & Mining representative

Environmental Scientist III
Title

Peter Hess
Signature

#46
Identification Number

SEE REVERSE SIDE

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



NOTICE OF VIOLATION NO. N06-46-1-1

"Failure to collect Baseline Water Monitoring Data during August 2005"
Violation No. 1 of 1

Nature of violation

1) Failure to analyze for additional water monitoring parameters for baseline data collection as required during August 2005 monitoring period for all active (surface and ground water) monitoring points, (See page 7-53 of MRP).

Provisions of act, regulations or permit violated

- 1) R645-301-731.214 Additional Ground Water Monitoring Requirements
- 2) R645-301-731.224 Additional Surface Water Monitoring Requirements

Portion of operation to which notice applies

1) The Bear Canyon Mines Permit Area

Remedial action required (including any interim steps)

1) The Permittee must collect all required surface and ground water samples during August 2006, and analyze for all required parameters for baseline data collection; additional parameters include analysis for dissolved aluminum, arsenic, boron, cadmium, copper, lead, molybdenum, nitrogen, nitrite, nitrate, phosphate, selenium and zinc.

1) All required baseline data must be collected between August 1, and August 31, 2006 during low flow conditions. Collected analytical data shall be submitted with 3rd Quarter 2006 monitoring data.

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

"Failure to Collect Baseline Water Monitoring Data During August 2005"

HINDRANCE TO ENFORCEMENT VIOLATIONS
INSPECTOR STATEMENT

Company/Mine CO-OP Mining Co. / Bear Cyn Mine
Permit # C/015/025

NOV/00 # N06-46-1-1
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 OR (check one) hindered enforcement by DOGM and/or the public and explain the circumstances.

The Permittee failed to analyze for the additional baseline water monitoring parameters required during August 2005. This is an MRP requirement (Table 7-14).

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

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- () 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:

- () 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:

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

Explanation: Yes; the requirement to analyze for baseline parameters for all surface and ground water monitoring points in August of year 5 prior to each permit renewal.

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: The Permittee has received several water monitoring violations prior to receipt of NO6-46-1-1. I believe this was an oversight made by the Permittee

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. Does Not Apply

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance. The Permittee must wait for low flow conditions during August 2006 to collect the baseline data required to abate this violation.

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

Peter Hess
Authorized Representative

Peter Hess
Signature

2/3/2006
Date