

U.S. DEPARTMENT OF THE INTERIOR  
Office of Surface Mining Reclamation and Enforcement  
**NOTICE OF VIOLATION**

1. Notice of Violation Number  
91 — 02 — 244 — 3

TV 1

2. Name  Permittee  
 No Permit

Genwal Coal Company

3. Mailing Address

P.O. Box 1201, Huntington, UT 84527

4. Name of Mine  Surface  Other (Specify)  Underground

Crandall Canyon

5. Telephone Number (801) 687-9813  
6. County Emery  
State Utah

Originating Office Address

USDI-OSM  
Albuquerque Field Office  
625 Silver Ave., SW  
Suite 310  
Albuquerque, NM 87102

Telephone Number  
(505) 766-1486

7. Operator's Name (If other than permittee)  
Same as above.

9. Date of Inspection  
June 26, 1991

8. Mailing Address

RECEIVED

10. Time of Inspection  
From 11:30 a.m. To 1:00 p.m.

11. State Permit Number  
ACT/015/032

12. U.S. Department of the Interior  
DIVISION OF

13. MSHA ID Number  
42-01715

14. OSM Mine Number  
N/A

OIL GAS & MINING

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR 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 violation(s) within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS NOTICE  DOES NOT  DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you  are  are not entitled to an informal public hearing on request, within 30 days after service of this notice (30 CFR 722.15).

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 Secretary. The time for correction may be extended by an authorized representative for good cause. If you need additional time to correct the violation(s), please contact the field office named above.

cert receipt # P 965 799 127

**IMPORTANT—Please Read Information on the Back of this Page**

15. Print Name of Person Served  
Allen Childs.

18. Date of Service  
June 26, 1991

16. Print Title of Person Served  
Mine Manager

19. Print Name of Authorized Representative  
Gary L. Fritz

17. Signature of Person Served

20. Signature of Authorized Representative

ID Number  
244

facts surrounding the alleged violation(s). Moreover, I cannot agree with your argument that your agency is without authority under the approved Utah program to make a determination whether the road in question needs to be permitted.

The determination of whether a particular road associated with a mining operation is required to be permitted must be made on a case-by-case basis by the regulatory authority relying on the plain language of the State program counterpart to the definition of "surface coal mining operations" under section 701(28)(B) of the Surface Mining Control and Reclamation Act (SMCRA). The Utah counterpart at 40-10-3.(18)(b) is identical to the definition in section 701(28)(B) of SMCRA. Both definitions specifically state that surface coal mining operations include "all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage...."

In applying the Utah definition to the instant case, I considered all available facts in the record such as the purpose of construction, who constructed the roads, the relationship of the roads to the existing public road system, the current use of the roads, and the reconstruction, improvement, and maintenance of the roads. In the case of the Crandall Canyon Road (Forest Service Road No. 50248), the record shows that the road begins at State Highway 31, crosses the Huntington Creek, and dead ends at the mine site, approximately 1.5 miles in length. The road was originally a 15-20 foot wide Forest Service jeep trail, leased under a special use permit to Genwal in which the company was required to perform all maintenance. The road was reconstructed in 1981 by Genwal, widening it to 35-50 feet and providing an 8 inch gravel base. The bridge across the creek was also reconstructed by Genwal at their expense, expanding it to two lanes, 60 feet wide. These improvements were made by the company to facilitate coal haulage, and is used almost exclusively for access and coal haulage by the coal company.

Based on the foregoing facts, and in the absence of any specific information provided by your agency which would demonstrate that the Crandall Canyon Road does not fall within the definition of "surface coal mining operations," I find that the road is within the jurisdictional reach of the Utah program. Similarly, you have provided no information to refute the observations in the record that additional contributions of sediment have occurred through use of the road. Accordingly, I hereby affirm the determination of the Albuquerque Field Office Director with