



State of Utah

**Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

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Governor

GARY R. HERBERT
Lieutenant Governor

February 13, 2006

CERTIFIED MAIL
7099 3400 0016 8894 6208

Mr. Ken May
Mine Manager, Sufco Mine
397 South 800 West
Salina, Utah 84654

Subject: Findings of Fact, Conclusions, Order and for Violation NO5-53-1-1
Sufco Mine, C/041/0002, Sevier County, Utah

Dear Mr. May:

On January 31, 2006, an Informal Conference was held to review the fact of violation for N05-53-1-1. As a result of a review of all pertinent data and facts, including those presented in the Informal Conference, the attached document constitutes the findings of fact, conclusions, and order.

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 penalties with the Division within 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 of \$264.00 must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, mail c/o Vickie Southwick at the address listed below.

Sincerely,

Mary Ann Wright
Associate Director, Mining
Assessment Conference Officer

vs
Enclosures
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BEFORE THE DIVISION OF OIL, GAS AND MINING
COAL REGULATORY PROGRAM
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE SUFCO	:	INFORMAL CONFERENCE
Mine, Canyon Fuel Company (CFC),		For N05-53-1-1
LLC, SEVIER COUNTY, UTAH	:	
		FINDINGS, CONCLUSIONS
		AND ORDER
	:	CAUSE NO. C/041/0002

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On January 31, 2006, the Division of Oil, Gas and Mining (“OGM”) held an Informal Conference concerning the Fact of Violation N05-53-1-1, issued to the Canyon Fuel LLC, Sufco Mine, Sevier County, Utah. The following individuals attended: Ken May and Chris Hansen for CFC and Steve Fluke, Wayne Hedberg, Pam Grubaugh-Littig, Dana Dean, Peter Hess for OGM and Jeff Studenka of the State Division of Water Quality.

Presiding: Mary Ann Wright
Associate Director, Mining
Division of Oil, Gas and Mining

Petitioner: Canyon Fuel Company, LLC, SUFCO Mine, Ken May &
Chris Hansen

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal conference, and on information presented by Mr. Steve Fluke, which is in OGM files. A copy of this information was provided to the Petitioner.

FACTS PRESENTED: Fact of the Violation

1. By letter dated January 5, 2006, Mr. Kenneth E. May, General Manager of Sufco Mine requested an informal conference to discuss the fact of violation for Violation N05-53-1-1.

2. Pursuant to Utah Code Ann. Section 40-10-20 and Utah Administrative Rules R645-401-700, notice of the informal conference was properly given and an informal conference in the matter was held on January 31, 2006.
3. The Violation was issued on November 14, 2005 for the existence of coal fines in the North Fork of Quitchupah Creek, observed by OGM on October 13, 2005. The source of the clouded water in the stream was presumed to have originated from the Mine's UPDES discharge pipe, 003A.
4. The Violation was abated by the submittal of a preventive action plan. The violation was subsequently terminated by OGM on December 14, 2005.
5. Mr. Steve Fluke presented a package including: a chronology of events, a location map of the water sample locations, photos of the coal in the stream, photos of the water samples, copies of the water analyses, the citizen complaint, notice of violation, the assessment for the violation, and the SUFCO plan to abate the violation. Mr. Fluke went through the package and explained the information provided. He explained that on October 5, 2005, Division of Water Quality (DWQ) field samplers observed coal fine-laden water in the North Fork of Quitchupah Creek downstream of the Sufco UPDES 003A discharge. The DWQ reported a total suspended solids (TSS) concentration of 458.7 mg/L for a sample collected from the North Fork of Quitchupah Creek at that location. Mr. Fluke visited the creek with DWQ on October 13 and collected samples above and below the 003A discharge point. The water sample collected below the discharge point contained coal fines. Laboratory analysis of the samples revealed TSS concentrations of 16 mg/L and 49.2 mg/L for the samples collected above and below the discharge point, respectively. Photos taken on October 13 showed coal fines settled onto the streambed of Quitchupah Creek. Standard mine samples taken at the discharge point, 003A, were <5 mg/L for TSS on September 28, and again on October 5, the same day that the samples downstream were collected by DWQ.

6. The Petitioners, stated that the mine discharge from 003A was sampled on September 28 and again on October 5, 2005 and found to be clear and in compliance. He presented photos showing the coal fines in Quitchupah Creek on October 13, and the clear water coming from the 003A discharge pipe on October 18. He petitioner stated that mine personnel walked the stream to determine if the coal in the stream had come from another source besides the discharge pipe. No other source of the coal fines or black water could be found. Given that no direct witness to the coal fine discharge event at 003A could be made, the fact of the violation was questioned. Mr. May and Mr. Chris Hansen asserted that CFC takes this matter very seriously and the permittee has taken further steps, beyond their initial plan, to prevent coal fines from entering the creek. They presented a proposed plan to reroute mine water to a location underground where it would be difficult for water contaminated by sedimentation from a roof fall or other entry of gob material to exit the mine without an appropriate settling time. This plan was being presented to CFC management.

CONCLUSIONS

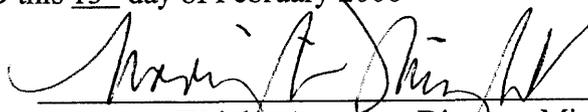
- Coal fines were sampled in Quitchupah Creek on October 5 and October 13, 2005.
- No other possible source of the suspended coal fines could be identified.
- OGM was correct in issuing the violation to Sufco Mine for coal fines in the Creek downstream of the discharge point, 003A.
- The Fact of the Violation should stand.

ORDER

NOW THEREFORE, it is ordered that:

- The Fact of the violation is upheld.

SO DETERMINED AND ORDERED this 13th day of February 2006



Mary Ann Wright, Associate Director, Mining
Informal Conference Officer
Division of Oil, Gas and Mining
State of Utah