

BEFORE THE BOARD OF OIL, GAS, AND MINING

FILED

DEPARTMENT OF NATURAL RESOURCES

DEC 11 2014

STATE OF UTAH

SECRETARY, BOARD OF
OIL, GAS & MINING

REQUEST FOR AGENCY ACTION OF PETITIONER CANYON FUEL COMPANY, LLC	Docket No. 2015-005 Cause No. C/041/0002
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Pursuant to Utah Administrative Rules R 645-401-800 and R 641-104-100, Canyon Fuel Company, LLC (“CFC”), permittee of the Sufco Mine (“Sufco” or “Mine”), C/041/0002, hereby requests the Board of Oil, Gas and Mining (“Board”) to vacate in their entirety Notices of Violation 13148 and 13151 (“NOVs”), issued by the Division of Oil, Gas and Mining (the “Division”) on October 1, 2014 at the Sufco Mine. These violations were upheld by the Division in an Order dated November 20, 2014. CFC requests that this matter be addressed in a formal adjudicative proceeding under the Utah Administrative Procedures Act, 63G-4-204 to 209, at the next available Board meeting. CFC submits this request in the form of a notice pleading and requests an opportunity to more fully brief the matters raised in this request.

FACTS AND PROCEDURAL HISTORY

1. On December 26, 2013, the Division approved plans for a 0.54 acre expansion of Sufco’s waste rock disposal area, Lift #5 (Task 4457). In the plans, CFC estimated that approximately 18” of topsoil would be found and excavated. Waste rock would then be successively placed in the expansion area as generated, bringing the elevation to and then above the original grade.

2. In June 2014, CFC completed Lift #5. More topsoil was encountered than anticipated, resulting in 487 cubic yards of soil removed and placed in on-site topsoil stockpiles and excavation to an approximate maximum depth of 5 feet.

3. CFC submitted a report on the work to the Division, which was received on June 30, 2014.

4. On July 1, 2014, the Division sent a deficiency notice. One of the deficiencies noted stated: "R645-301-521.165. The area covered by the two piles was expanded from 0.05 acres to 0.24 acres. The Underground Development Waste Disposal Site Plan, Map 2, should be modified accordingly." No deadline for submission of the modified Underground Development Waste Disposal Site Plan, Map 2, was prescribed. A copy of the July 1, 2014 deficiency notice is attached as Exhibit A.

5. Map 2 of the Underground Development Waste Disposal Site Plan contains several other features in addition to the soil piles, including a depiction of an adjacent road and a waste rock disposal cell. A copy of current Map 2 of the Underground Development Waste Disposal Site Plan is attached as Exhibit B.

6. Starting in the early spring and completed in July 2014, Sevier County performed a road re-alignment project that would alter the road-related features shown on Map 2. In addition, Division-approved alterations to the waste rock disposal cell were under way. CFC had scheduled its regular semi-annual survey fly-over for November 2014, to provide information for a full update of features depicted on Map 2.

7. The Division inspected Sufco on July 30, 2014. No violations were noted.

8. On August 27, 2014, the Division inspected Sufco. No violations were noted. A copy of the inspection report is attached as Exhibit C. The Inspection Report stated "[a]t some

point in the near future an as-built drawing of the pile will need to be submitted to the Division.” The Inspection Report was not sent to Sufco until September 25, 2014, after the September 23, 2014 inspection and after NOV 13151 was issued. At the August 27, 2014 inspection, the inspector verbally asked when as-builts would be provided. The Sufco representative stated that she did not know, but would check and reply back to the Division. Following the inspection a phone call was placed on or about August 29th to the Division inspector, verifying that as-builts of the waste rock area requiring modifications to Map 2 would follow receipt of additional information.

9. From the June excavation through mid-September, 2014, CFC prioritized the placement of waste rock on the Lift #5 location, so as to bring the excavation hole back up to grade.

10. As of September 22, 2014, placement of waste rock had accumulated so as to bring the excavation area up to grade across most of the site. An area of approximately 10 – 15 square yards remained about 6” below grade, because insufficient waste rock had been hauled to the site to completely fill the excavation.

11. On September 22, 2014, the Sufco Mine area experienced a heavy rainstorm. Water temporarily impounded in the six inch residual depression in the Lift #5 excavation area. By September 24, 2014, all accumulated water had either drained to the on-site sediment pond, evaporated, or infiltrated site soils.

12. On September 23, 2014, the Division inspected the Mine. The inspector issued 5 NOVs. NOVs 13149, 131150, and 13153 were subsequently vacated and are not the subject of this Petition.

13. Written NOVs were transmitted on October 1, 2014. NOV 13148 was issued for “Failure to convey runoff from the waste rock site to the sediment pond.” A copy of NOV 13148 is attached as Exhibit D. The NOV cites selected pages from Sufco’s Mine Reclamation Plan (“MRP”), which are attached as Exhibit E.

14. NOV 13151 was issued for “Failure to conduct mining activities only as described in the approved MRP.” A copy of NOV 13151 is attached as Exhibit F.

15. On October 14, 2014, NOV 13151 was modified, clarifying that information that had not changed in the MRP need not be included in the update. A copy of the modification of NOV 13151 is attached as Exhibit G.

16. On October 20, 2014, CFC requested an informal conference with the Division to review the fact and proposed assessment for the NOVs.

17. The informal conference was held on October 29, 2014. Following the informal conference, NOVs 13149, 131150, and 13153 were vacated. NOVs 13148 and 13151 were upheld. A copy of the Division’s Findings of Fact, Conclusions of Law, and Order is attached as Exhibit H.

18. On December 1, 2014, CFC received a copy of the inspection report for the September 23, 2014 inspection. The Report states that it was “accepted” by the Inspector on October 29, 2014. A copy of the Inspection Report is attached as Exhibit I.

REQUEST TO VACATE THE NOVs

CFC requests that the Board vacate NOVs 13148 and 13151 on the following grounds:

1. NOV 13148 incorrectly interprets the Sufco MRP. NOV 13148 appears to be based on the following statements in the MRP: “Ditches will convey runoff from the disposal area to the sediment pond,” MRP § 2.4.1 (Ex. E), and “All surface precipitation falling directly

on and infiltrating the underground development waste fill shall be channeled to a sedimentation pond located down gradient from the toe of the disposal area fill.” MRP § 3.1.1 (Ex. E). There was no violation of these provisions. There is no prohibition on temporary pooling or impoundment of water associated with rainstorms, so long as the precipitation is ultimately routed to the sedimentation pond. All precipitation that immediately ran off the area of Lift #5 was routed to the sedimentation pond, and all precipitation that infiltrated the waste disposal cell was routed to the sedimentation pond. All water had run-off, evaporated, or infiltrated within 48 hours of the storm. In addition, there is no sound chemical or geophysical reason to prohibit such small-volume, temporary pooling. The interpretation advanced by the Division would unreasonably interfere with ongoing mining operations.

2. NOV 13151 is arbitrary and capricious. The July 1, 2014 deficiency letter appropriately requested an updated Map 2 of the Underground Development Waste Disposal Site Plan, but did not provide a deadline. On or about August 29, 2014, CFC informed the Division of the plan to update Map 2 following the receipt of additional information. CFC had legitimate reasons to delay the update, given other pending relevant activities depicted on Map 2. Had CFC updated Map 2 to only reflect the work associated with Lift #5, further updates would have been required in the near future to reflect other contemporaneous work. Serial updates in close succession would have been confusing to the Division. No further response or demand from the Division was received until issuance of the NOV. The Division’s ability to understand Lift #5 and inspect for compliance with the MRP was not compromised, as evidenced by the inspection of August 27, 2014, in which no violations were noted.

In sum, for the reasons set forth above, CFC requests that the Board hold a formal adjudicative proceeding to review the fact of violation of the NOVs in this matter. CFC will

supplement this Petition with a brief requesting that the Board vacate the NOV's in their entirety.

Respectfully submitted on December 11, 2014

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**Attorneys for Canyon Fuel Company,
LLC**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing instrument upon all parties of record in this proceeding by delivering a copy thereof in person to:

Steven F. Alder, Esq.
Assistant Utah Attorney General
Division of Oil, Gas, and Mining
1594 West North Temple
Salt Lake City, Utah 84118

Dated at Salt Lake City, Utah, this day of December 11, 2014.

A handwritten signature in cursive script, reading "Brent Waddingham", is written over a horizontal line. The signature is positioned to the right of the date.

EXHIBIT A



State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

July 1, 2014

Ken May, General Manager
Canyon Fuel Company, LLC
597 South SR24
Salina, Utah 84654

Subject: Revise Soil Storage Pile Quantities, Canyon Fuel Company, LLC, Sufco Mine, C/041/0002, Task ID #4635

Dear Mr. May:

The Division has reviewed your application at the Sufco Mine. The Division has identified deficiencies that must be addressed before final approval can be granted. The deficiencies are listed as an attachment to this letter.

The deficiencies authors are identified so that your staff can communicate directly with that individual should questions arise. The plans as submitted are denied. Please resubmit the entire application.

If you have any questions, please call me at (801) 538-5325.

Sincerely,

Daron R. Haddock
Coal Program Manager

DRH/sqs
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GARY H. BERHOFER
Governor
GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL H. STYLER
Secretary

Division of Oil, Gas and Mining

JOHN R. BAZA
Director

Technical Analysis and Findings

Utah Coal Regulatory Program

PID: C0410002
TaskID: 4635
Mine Name: SUFCO MINE
Title: REVISE SOIL STORAGE PILE QUANTITIES

Operation Plan

Topsoil and Subsoil

Deficiencies Details:

R645-301-121.200, The volume recovered from the project was 487 cu yds according to the Table on WRDS 3-5. However the subsoil volume on WRDS p. 3-4 was increased by only 406 cu yds. Please cross check these figures for accuracy.

R645-301-521.165, The area covered by the two piles was expanded from 0.05 acres to 0.24 acres. The Underground Development Waste Disposal Site Plan, Map 2, should be modified accordingly.

pburton

EXHIBIT B



EXHIBIT B

EXHIBIT C



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Inspection Report

Permit Number:	C0410002
Inspection Type:	PARTIAL
Inspection Date:	Wednesday, August 27, 2014
Start Date/Time:	8/27/2014 3:00:00 PM
End Date/Time:	8/27/2014 4:00:00 PM
Last Inspection:	Wednesday, July 30, 2014

Representatives Present During the Inspection:	
Company	Amanda Richard
OGM	Joe Helfrich

Inspector: Joe Helfrich

Weather: cool windy 70

InspectionID Report Number: 3952

Accepted by: JHELFRIC
9/25/2014

Permittee: **CANYON FUEL COMPANY**
 Operator: **CANYON FUEL COMPANY**
 Site: **SUFCO MINE**
 Address: **597 SOUTH SR24, SALINA UT 84654**
 County: **SEVIER**
 Permit Type: **PERMANENT COAL PROGRAM**
 Permit Status: **ACTIVE**

Current Acreages

720.48	Total Permitted
49.66	Total Disturbed
	Phase I
	Phase II
	Phase III

Mineral Ownership

- Federal
- State
- County
- Fee
- Other

Types of Operations

- Underground
- Surface
- Loadout
- Processing
- Reprocessing

Report summary and status for pending enforcement actions, permit conditions, Division Orders, and amendments:

The purpose of this site visit was to conduct a partial inspection. The undersigned met with Amanda Richard at approximately 3:00 PM on the 27th of August at the waste rock sight.

EXHIBIT C

Inspector's Signature:

Joe Helfrich,

Inspector ID Number: 1

Date Tuesday, September 2, 2014



Noted 5/11/15 inspection report does not contain information for compliance with the regulatory program of the Division of Oil, Gas and Mining.
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • www.ogm.utah.gov

OIL, GAS & MINING

Permit Number: C0410002
 Inspection Type: PARTIAL
 Inspection Date: Wednesday, August 27, 2014

Inspection Continuation Sheet

REVIEW OF PERMIT, PERFORMANCE STANDARDS PERMIT CONDITION REQUIREMENTS

1. Substantiate the elements on this inspection by checking the appropriate performance standard.
 - a. For COMPLETE inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check Not Applicable.
 - b. For PARTIAL inspections check only the elements evaluated.
2. Document any noncompliance situation by reference the NOV issued at the appropriate performance standard listed below.
3. Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
4. Provide a brief status report for all pending enforcement actions, permit conditions, Divison Orders, and amendments.

	Evaluated	Not Applicable	Comment	Enforcement
1. Permits, Change, Transfer, Renewal, Sale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Signs and Markers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Topsoil	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.a Hydrologic Balance: Diversions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.b Hydrologic Balance: Sediment Ponds and Impoundments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.c Hydrologic Balance: Other Sediment Control Measures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.d Hydrologic Balance: Water Monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.e Hydrologic Balance: Effluent Limitations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Explosives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Disposal of Excess Spoil, Fills, Benches	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Coal Mine Waste, Refuse Piles, Impoundments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Noncoal Waste	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Protection of Fish, Wildlife and Related Environmental Issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Slides and Other Damage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Contemporaneous Reclamation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Backfilling And Grading	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Revegetation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Subsidence Control	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Cessation of Operations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.a Roads: Construction, Maintenance, Surfacing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.b Roads: Drainage Controls	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Other Transportation Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Support Facilities, Utility Installations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS Check	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Air Quality Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Bonding and Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Permit Number: C0410002
Inspection Type: PARTIAL
Inspection Date: Wednesday, August 27, 2014

Inspection Continuation Sheet

Page 3 of 3

1. Permits, Change, Transfer, Renewal, Sale

A short discussion included notification to Amanda of the scheduled site visit to the rock shelter cultural resource on the 28th of August with Charmaine Thompson (FS Archaeologist).

3. Topsoil

Topsoil excavated from the waste rock expansion had been added to the lower stockpile. At some point in the near future an as built drawing of the pile will need to be submitted to the Division.

EXHIBIT D

 <p>UTAH DNR OIL, GAS & MINING</p>	<p>Citation for Non-Compliance Utah Coal Regulatory Program 1594 West North Temple, Salt Lake City, UT 84114 Phone: (801) 538-5340 Fax: (801) 359-3940</p>	<p>Citation #: 13148</p>
		<p>Permit Number: C0410002</p>
		<p>Date Issued: 10/01/2014</p>
<p><input checked="" type="checkbox"/> NOTICE OF VIOLATION <input type="checkbox"/> CESSATION ORDER (CO) <input type="checkbox"/> FAILURE TO ABATE CO</p>		
<p>Permittee Name: CANYON FUEL COMPANY</p>		<p>Inspector Number and ID: 1 JHELFRIC</p>
<p>Mine Name: SUFCO MINE</p>		<p>Date and Time of Inspection: 09/23/2014</p>
<p>Certified Return Receipt Number: 7012 3460 0002 9559 6076</p>		<p>Date and Time of Service: 10/01/2014</p>
<p>Nature of condition, practice, or violation: Failure to convey runoff from the waste rock site to the sediment pond.</p>		
<p>Provisions of Act, regulations, or permit violated: R645-300-143 Volume 3, Part 2, Page 2-4 & Volume 3, Part 3, Page 3-1 of the approved MRP.</p>		
<p><input type="checkbox"/> This order requires Cessation of ALL mining activities. (Check box if appropriate.)</p>		
<p><input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.</p>		<p><input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.</p>
<p><input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.</p>		<p><input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.</p>
<p><input type="checkbox"/> This order requires Cessation of PORTION(S) of mining activities.</p>		
<p>Mining activities to be ceased immediately: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>		<p>Abatement Times (if applicable).</p>
<p><i>DO NOT PLACE WASTE ROCK IN THE WASTE ROCK SITE WHERE WATER IS IMPOUNDED.</i></p>		
<p>Action(s) required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Submit plans to the Division to convey runoff from the waster rock facility to the sediment pond by no later than 5:00 PM Friday, October 17th. Plans must be complete and adequate and implemented upon approval.</p>		
<p><i>Ken May</i> _____ (Print) Permittee Representative</p>		<p>JOE HELFRICH _____ (Print) DOGM Representative</p>
<p>_____ Permittee Representative's Signature - Date</p>		<p><i>Joseph C. Helfrich, 10/1/2014</i> _____ DOGM Representative's Signature - Date</p>
<p>SEE REVERSE SIDE Of This Form For Instructions And Additional Information</p>		

EXHIBIT E

2.4.1 Diversion Ditches

Sergent, Hauskins & Beckwith's work on hydrology of the area was of an investigative nature. Subsequent designs of diversions used actual areas and runoff curve numbers that are believed to be more representative of the area. These calculations are included in Appendix III.

Diversion ditches are provided to direct runoff around the disturbed areas and sediment pond. Ditches will convey runoff from the disposal area to the sediment pond. These diversion ditches are shown on Map 2.

The maximum flow resulting from a 10 year, 24 hour storm was used as the design flow for each of the diversions. Ditches No. 1 and 2 conveying runoff to the sediment pond shall be trapezoidal shaped in cross-section. Both ditches have a bottom width of 12 inches and side slopes of 1:1 and are a nominal 16 inches deep. Ditch No. 2 is concrete lined, Ditch No. 1 is a dirt ditch with steep areas within the ditch being riprap lined. Ditch No. 1 was previously a concrete lined ditch, which will be broken up, left in place and covered with waste rock. This design will carry the 4.42 cfs of runoff expected from the disturbed area with 0.3 feet of freeboard. Design calculations are included in Appendix III.

Undisturbed drainage is routed around the disposal site and sediment pond using Diversions No. 1, 2, and 3 as shown on Map 2. The drainage areas are shown on Map 3. Diversion No. 1 utilizes an existing culvert to convey part of the drainage area across the county road and onto an existing flood plain. This vegetated channel will adequately carry the runoff expected from the 0.19 square mile area. Another culvert will be used to collect the runoff from Area No. 2 and convey it across the county road. The diversion utilizes a vegetated ditch 0.90 feet deep and 19 feet wide of parabolic cross-section. Diversion No. 3 will route road runoff away from the facility. Design calculations for these diversions are included in Appendix III.

2.4.2 Hydrologic Design Criteria of the Sedimentation Pond

Calculations of hydrologic design criteria are presented in Appendix III. Runoff volumes were calculated using SCS procedures.

WRDS 2-4

EXHIBIT E

INCORPORATED

DEC 26 2013

Div. of Oil, Gas & Mining

PART 3 OPERATION PLAN

3.1 Development Plan

3.1.1 Runoff Control

Based on the size, configuration, and open graded structure of the waste rock fill and its location at the site, no underdrains or rock core chimney drains will be required. There were no springs or seeps within the proposed fill area at the time of the investigation which would require special treatment.

All surface precipitation falling directly on and infiltrating the underground development waste fill shall be channeled to a sedimentation pond located down gradient from the toe of the disposal area fill. The active pad area will have a berm constructed around the outside edge about 2 ft high to comply with MSHA requirements. This active pad will be slope at about 2% to the east and south. Thus precipitation falling on the pad will drain to the southeast corner where it will be routed down the slope of the fill in an interception ditch with a trapezoidal cross section. The bottom width of the ditch will be 2 ft with 1v:2h side slopes. Riprap with a D_{50} of 10 inches will be used to line the ditch. This ditch will be a minimum of 0.7 ft deep, such that it can convey the 100 year, 6 hour event with 0.5 ft freeboard. This configuration will not allow any impounding of water on the surface of the fill. Another interception ditch will be cut about 20 ft to the west of the active fill slope. This ditch will have a triangular cross section with 1v:2h side slopes with a minimum depth of 0.9 ft. This interception ditch will route 100 year, 6 hour runoff to Ditch No. 2 which empties into the sedimentation pond.

Designs for these temporary interception ditches are in Appendix III, Engineering Calculations.

The sedimentation pond is designed to handle the 10 year, 24 hour precipitation event. Design criteria for the sedimentation pond are presented in Section 2.4.2.

All surface drainage from the areas above the site should be diverted around the disposal area from the point where it enters the site through the roadway embankment culverts. Surface drainage from the county road above the site must be controlled by a shoulder ditch and

EXHIBIT F

 <p>UTAH DNR OIL, GAS & MINING</p>	<p>Citation for Non-Compliance Utah Coal Regulatory Program 1594 West North Temple, Salt Lake City, UT 84114 Phone: (801) 538-5340 Fax: (801) 359-3940</p>	<p>Citation #: 13151</p>	
			<p>Permit Number: C0410002</p>
			<p>Date Issued: 10/01/2014</p>
<p> <input checked="" type="checkbox"/> NOTICE OF VIOLATION <input type="checkbox"/> CESSATION ORDER (CO) <input type="checkbox"/> FAILURE TO ABATE CO </p>			
<p>Permittee Name: CANYON FUEL COMPANY</p>		<p>Inspector Number and ID: 1 JHELFRIC</p>	
<p>Mine Name: SUFCO MINE</p>		<p>Date and Time of Inspection: 09/23/2014</p>	
<p>Certified Return Receipt Number: 7012.34600002.95596076</p>		<p>Date and Time of Service: 10/01/2014</p>	
<p>Nature of condition, practice, or violation: Failure to conduct mining activities only as described in the approved MRP.</p>			
<p>Provisions of Act, regulations, or permit violated: R645-300-142</p>			
<p><input type="checkbox"/> This order requires Cessation of ALL mining activities. (Check box if appropriate.)</p>			
<p><input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.</p>		<p><input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.</p>	
<p><input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.</p>		<p><input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.</p>	
<p><input type="checkbox"/> This order requires Cessation of PORTION(S) of mining activities.</p>			
<p>Mining activities to be ceased immediately: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		<p>Abatement Times (if applicable):</p>	
<p>Action(s) required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Submit plans that clearly address the topsoil removal, segregation, stockpiling, protection and seeding of the topsoil salvaged at the waste rock expansion site. Plans need to include at a minimum the following information: A detailed narrative and map that include locations and volumes of salvageable and salvaged topsoil and or subsoil. Plans must be submitted by no later than 5:00 PM Friday, October 31. Plans must be complete and adequate and implemented upon approval.</p>			
<p>Ken May _____ (Print) Permittee Representative</p>		<p>JOE HELFRICH _____ (Print) DOGM Representative</p>	
<p>_____ Permittee Representative's Signature - Date</p>		<p><i>Joseph C. Helfrich</i> _____ DOGM Representative's Signature - Date</p>	
<p><u>SEE REVERSE SIDE OF This Form For Instructions And Additional Information</u></p>			

EXHIBIT G

 <p>UTAH DNR OIL, GAS & MINING</p>	<p>Action Taken on Existing Citation Utah Coal Regulatory Program</p> <p>1594 West North Temple, Salt Lake City, UT 84114 Phone: (801) 538 - 5285 Fax: (801) 359-3940</p>	<p>Action on Citation#: 13151</p>	
			<p>Permit Number: C0410002</p>
			<p>Date Cit. Issued: 10/01/2014</p>
<p><input checked="" type="checkbox"/> MODIFICATION of <input type="checkbox"/> TERMINATION of <input type="checkbox"/> VACATION of</p>			
<p><input checked="" type="checkbox"/> NOTICE OF VIOLATION <input type="checkbox"/> CESSATION ORDER (CO) <input type="checkbox"/> FAILURE TO ABATE CO</p>			
<p>Permittee Name: CANYON FUEL COMPANY</p>		<p>Inspector Number and ID: 1 JHELFRIC</p>	
<p>Mine Name: SUFECO MINE</p>		<p>Date and Time of Action: 10/14/2014</p>	
<p>Certified Return Receipt Number:</p>		<p>Date and Time of Service: 10/15/2014</p>	
<p><i>In accordance with the provisions of the Utah Coal Mining and Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the above referenced Citation is:</i></p>			
<p><input checked="" type="checkbox"/> Modified as follows: If the information in Volume 3, Part 2 on page 2-9, paragraph 2 of the MRP has not changed then it does not need to be included in the abatement plans for this notice of violation. Maps clearly showing where the topsoil will be removed from and where it will be placed are still required in addition to the correct text.</p> <p>Reason for modification: Further review of Volume 3 of the MRP indicated that there was another section (page 2-9) in part 2 in addition to that on page 2-1 of part 2 that further described the soils activities at the waste rock site.</p>			
<p><input type="checkbox"/> Terminated because:</p>			
<p><input type="checkbox"/> Vacated because:</p>			
<p>Ken May _____ (Print) Permittee Representative</p>		<p>JOE HELFRICH _____ (Print) DOGM Representative</p>	
<p>Permittee Representative's Signature - Date</p>		<p><i>Joseph C. Helfrich</i> _____ DOGM Representative's Signature - Date</p>	
<p>Refer to the "Citation For Non-Compliance" for additional information</p>			

EXHIBIT H



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

November 20, 2014

CERTIFIED MAIL
70101670000148103409

Mr. Chris Hansen
Bowie Resources
Sufco Mine
597 S SR24
Salina, Utah 84654

Subject: Findings of Fact, Conclusions of Law, and Order for NOV 13148, 13149, 13150, 13151, and 13153, SUFCO Mine, C0410002

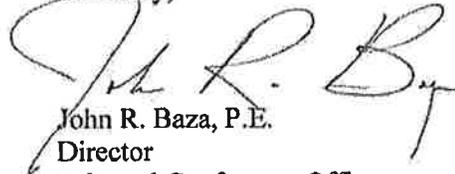
Dear Mr. Hansen:

On October 29, 2014, an informal conference was held at the Utah Department of Natural Resources to review the fact of violation for the referenced Notices of Violation issued on October 1, 2014. 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 of Law, and Order of the Informal Conference Officer.

Pursuant to Utah Admin. Code R645-401-800, you may make a written appeal of this Order to the Board of Oil, Gas, and Mining. Your written appeal may be filed with Julie Ann Carter, Board Secretary, P.O. Box 145801, Salt Lake City, Utah 84114-5801. If you have questions regarding the filing, she can be contacted at juliecarter@utah.gov or (801) 538-5277.

If you have questions or concerns please contact me at (801) 538-5334.

Sincerely,



John R. Baza, P.E.
Director
Informal Conference Officer

JRB:er
Attachment

cc: Dana Dean
Daron Haddock

1594 West North Temple, Suite 1210, PO Box 145801, Salt Lake City, UT 84114-5801
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • www.ogm.utah.gov



EXHIBIT H

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

IN THE MATTER OF THE INFORMAL CONFERENCE FOR THE FACT OF VIOLATION AND PROPOSED PENALTY ASSESSMENT FOR NOTICES OF VIOLATION 13148, 13149, 13150, 13151, AND 13153, CANYON FUEL COMPANY, SUFCO MINE	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER PERMIT NO. C/041/0002
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PROCEDURAL HISTORY

1. On October 1, 2014, the Utah Division of Oil, Gas and Mining (“Division” or “DOGM”) issued Notices of Violation No. 13148, 13149, 13150, 13151, and 13153 (“NOV”) to Canyon Fuel Company (“CFC” or “the operator”) as a result of a complete inspection conducted September 23, 2014, by Joe Helfrich of DOGM.
2. NOV 13151 was subsequently modified on October 14, 2014.
3. On or about October 20, 2014, CFC timely requested an informal conference before the Division to review the fact of the violation and proposed assessment for the NOV.
4. On October 29, 2014, the Division held an informal conference pursuant to Utah Admin. Code R645-401-700 to review the NOVs. The hearing took place at the Department of Natural Resources Building, 1594 West North Temple, Salt Lake City, Utah.
5. John Baza, Director of the Division, served as the Conference Officer for the informal conference.
6. Joe Helfrich, Environmental Scientist and Inspector for the Division, presented the Division’s arguments for the NOVs. Other persons in attendance representing the Division were Dana Dean, Associate Director for Mining, and Daron Haddock, Coal Regulatory Program Supervisor.
7. Representatives of CFC and Bowie Resources attending the conference were Chris Hansen, Vicky Miller, Ken May, John Byers, Amanda Richard, and Wyatt Shakespear. Chris Hansen provided principal arguments contesting the Fact of Violation of the NOVs.

FINDINGS OF FACT

8. During the complete inspection of the SUFCO Mine on September 23, 2014, Mr. Helfrich was accompanied by Vicky Miller of CFC.
9. The NOV's were written to address certain issues in the operations of the SUFCO Mine:
 - a. Management of surface drainage and stormwater runoff at the waste rock site such that the runoff was conveyed to the sediment pond (NOV 13148);
 - b. Protection of topsoil both in construction of the waste rock expansion site and at the #1 topsoil storage site (NOV 13149 and 13150); and
 - c. Conducting mining activities different than described in the approved Mining Reclamation Plan ("MRP", NOV 13151 and 13153).
10. The areas subject to the NOV's were all within the permitted areas of disturbance previously approved and identified by the MRP.

NOV's relating to the construction of the waste rock expansion site:

11. In response to NOV 13148, Mr. Hansen stated that their contractor encountered a larger amount of topsoil during construction of the waste rock expansion site. Thus, the depth of excavation was greater than they anticipated, and the amount of topsoil moved to a topsoil storage area was also greater than they anticipated.
12. Hansen also indicated that there had been recent rainstorm activity at the subject location prior to the inspection. He stated that the increased depth of the topsoil excavation allowed for surface drainage and stormwater runoff to pool in an area behind a berm designed to prevent such water from moving topographically downhill (the berm is also the subject of NOV 13153). The pooled water had not reached the level of a previously established drainage ditch designed to convey water to the sediment pond. At the time of the inspection, the operator had not yet implemented a mechanism for conveying the runoff to the sediment pond; however, the pooled water had not exceeded the capacity of or overtopped the berm.
13. A review of Division information related to this matter shows the following language approved in the permit: "Section 3.1.1 - Runoff Control - All surface precipitation falling directly on and infiltrating the underground development waste fill shall be channeled to a sedimentation pond located down gradient from the toe of the disposal area fill. The active pad area will have a berm constructed around the outside edge about 2 ft. high to comply with MSHA requirements. This active pad will be sloped at about 2% to the east and south. Thus precipitation falling on the pad will drain to the southeast corner where it will be routed down the slope of the fill in an interception ditch with a trapezoidal cross section."
14. Mr. Hansen contended that the impoundment of fluid was in fact adequate, and that further action will be taken by the operator to properly convey the fluid to the sediment pond as approved in their MRP. This information was provided in regard to NOV 13148.

15. Hansen also stated that the waste rock expansion site was within the approved disturbed area of the mine at the time of the inspection. The total approved waste rock expansion site disturbed area includes a tract that will remain undisturbed, pending decisions by the operator concerning a potential road being considered through that tract. A berm (also identified in paragraphs 12 and 22, and NOV 13153) separates the disturbed area of the waste rock expansion site from the undisturbed area to the south of the berm. Although the operator is approved for greater disturbance than is currently used for the waste rock expansion site, they may not need the total area. They will revise their plan accordingly at the appropriate time.
16. The area to the south of the aforementioned separating berm also includes a 10 ft. wide area adjacent to the berm where equipment has been used in constructing the berm. This 10 ft. wide portion is the subject of NOV 13149. Mr. Hansen contends that the topsoil is not overly compacted and is still capable of being salvaged if and when plans for disturbance of that area are implemented. In Mr. Hansen's words, "topsoil that was required to be saved has been saved."
17. Hansen stated further that the greater amount of topsoil excavated from the waste rock expansion site was placed in a topsoil storage area, but did not match the described volume included in the approved MRP. After topsoil placement, "as built" information was prepared and submitted to address this discrepancy. Mr. Hansen's explanation was provided in regard to NOV 13151.
18. A review of Division information related to this matter shows that the Division issued an approval of a 0.54 acre expansion of Lift #5 (Task 4457) on December 26, 2013, with the assumptions that: 18 in. depth topsoil and subsoil removal to be either live-hauled to cover waste rock or placed on existing topsoil stockpile #2, and the operator would submit "as-builts" detailing the volumes salvaged and mapping the new stockpile configuration.
19. Lift #5 "as-builts" were received on June 30, 2014, reviewed (Task 4635) and returned the next day, July 1, 2014. The Division learned that the volume of soil salvaged was greater than estimated, but requested an additional as-built map showing the location and construction of the topsoil storage piles.
20. The requested as-built map had not been submitted at the time the inspector went to the site.
21. NOV 13151 was written on October 1, 2014. The narrative and as-built map was provided (Task 4702) on October 9, 2014.
22. Mr. Hansen indicated the berm that is the subject of NOV 13153 (also mentioned in paragraphs 12 and 15) was to demarcate the limit of construction disturbance and topsoil salvage for the waste rock expansion site. Although it is related to the capture and conveyance of surface drainage and stormwater runoff identified in NOV 13148, he contends that there is no specific requirement for approval of the design or construction of the referenced berm.

NOV relating to topsoil storage areas #1A and #1B:

23. Mr. Hansen and Ms. Miller provided photographs that were identified as illustrating the area that is the subject of NOV 13150 (the subject area is located at the northwest corner of topsoil storage area #1, near the western edge of the permit area boundary, adjacent to a county public road). They stated that the existing configuration of the drainage ditch and berm are just as depicted in the approved MRP, and there is no need for further action.

CONCLUSIONS OF LAW

24. NOV 13148 alleges a violation of Rule R645-300-143 which reads that “the permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.” The September 23, 2014 complete inspection report provided at the conference by Mr. Helfrich states that the NOV “was issued for failure to convey runoff from the waste rock site to the corresponding sediment pond.” The language of the approved MRP shown in paragraph 13 indicates that the management of surface runoff was to occur by a 2% sloping of the waste disposal pad to the east and south and the runoff conveyed to the sediment pond. This appears to not be the case. It is not clear to the Conference Officer that the impoundment of runoff water or its conveyance to the sediment pond was being performed inadequately or otherwise causing environmental degradation; however, the operator does have the responsibility to document the physical configuration of mining operations as part of the approved MRP, and to timely maintain those records.
25. NOV 13149 alleges a violation of Rule R645-301-234.200 that refers to placement and protection of stockpiled topsoil such that the material can be saved and redistributed over reclaimed areas at an appropriate time. From the explanations provided by both Mr. Helfrich and Mr. Hansen at the informal conference, the Conference Officer cannot discern that the operator has inadequately stockpiled topsoil for future use.
26. NOV 13150 alleges another violation of Rule R645-301-234.200 (similar to the alleged violation of paragraph 25, but for a different subject area). The berm and ditch discussed at the conference are indicated on maps within the approved MRP. Maps 2v6 and 4v4 depict Topsoil Storage Piles 1A and 1B accurately and at a scale as required in Rule R645-301-140. However, the Conference Officer believes that much confusion could have been avoided if a larger scale map of that particular area were available, with line types more clearly distinguishing berms, ditches, silt fences and the disturbed area boundary.
27. NOV 13151 alleges a violation of Rule R645-300-142 which reads that “the permittee will conduct all coal mining and reclamation operations only as described in the approved application, except to the extent that the Division otherwise directs in the permit.” The operator was not prompt in submitting as-built information in response to the Division’s July 1, 2014 request for such information. The plan had not been modified at the time the inspector visited the site.

28. NOV 13153 alleges an additional violation of Rule R645-300-142 (see quoted language of paragraph 27). This NOV relates to NOV 13148 regarding the impoundment of surface drainage and stormwater runoff by the construction of a berm. This NOV requires as an abatement action that the berm's design and construction should be reviewed and approved as part of the MRP. The Conference Officer cannot determine that there is a specific requirement for such information to be included in the MRP.

ORDER

25. NOVs 13149 and 13153 are hereby vacated.
26. NOV 13150 is vacated. However, additional action is required as a result of information that came to light but was not part of the NOV. The operator shall submit a map of topsoil storage piles 1A and 1B at a scale of 1" = 25' with line types more clearly distinguishing berms, ditches, silt fences and the disturbed area boundary. Such information shall be submitted to the Division by close of business on December 19, 2014. The submitted information will be reviewed by the Division, and if approved, will be included as part of the approved MRP.
27. NOV 13148 is upheld. To further describe the abatement action already explained in the NOV, the operator shall submit information that:
- a. shows that the pooled surface drainage and stormwater runoff that had been visually observed at the time of the complete inspection has been eliminated or properly conveyed to the sediment pond, and
 - b. corrects the information in the approved MRP to accurately describe the future methods and the structural configuration to convey surface drainage and stormwater runoff to the sediment pond.
- Such information shall be submitted to the Division by close of business on December 19, 2014. The submitted information will be reviewed by the Division and if approved, will be included as part of the approved MRP.
28. NOV 13151 is upheld. As stated in paragraph 21, the narrative and map related to topsoil stockpiling have already been submitted to the Division. Thus, the required abatement action has already occurred. The Conference Officer is not aware if the Division has reviewed and approved the submitted information; therefore, the operator should promptly confer with Division staff to identify any further action needed for Division approval.

RIGHTS OF APPEAL

This Order may be appealed to the Board of Oil Gas and Mining in accordance with the procedures set out in Rule R645-401-800 by filing a written petition for appeal with the Board within 30 days of receipt of the Order. To do so, you must also escrow the assessed civil penalties with the Division within 30 days of receipt of the Order, 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.

Your written appeal may be filed with Julie Ann Carter, Board Secretary, P.O. Box 145801, Salt Lake City, Utah 84114-5801. If you have questions regarding the filing, she can be contacted at juliecarter@utah.gov or (801) 538-5277.

SO DETERMINE AND ORDERED this 20th day of November, 2014.



John R. Baza, Director
Division of Oil, Gas and Mining
Informal Conference Officer

EXHIBIT I



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Inspection Report

Permit Number:	C0410002
Inspection Type:	COMPLETE
Inspection Date:	Tuesday, September 23, 2014
Start Date/Time:	9/23/2014 8:30:00 AM
End Date/Time:	9/23/2014 12:30:00 PM
Last Inspection:	Wednesday, August 27, 2014

Representatives Present During the Inspection:	
Company	Vicky Miller
OGM	Joe Helfrich

Inspector: Joe Helfrich

Weather: sunny warm 75

InspectionID Report Number: 3988

Accepted by: JHELFRIC
10/29/2014

Permittee: **CANYON FUEL COMPANY**
Operator: **CANYON FUEL COMPANY**
Site: **SUFCO MINE**
Address: **597 SOUTH SR24, SALINA UT 84654**
County: **SEVIER**
Permit Type: **PERMANENT COAL PROGRAM**
Permit Status: **ACTIVE**

Current Acreages		Mineral Ownership	Types of Operations
720.48	Total Permitted	<input checked="" type="checkbox"/> Federal	<input checked="" type="checkbox"/> Underground
49.66	Total Disturbed	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Surface
	Phase I	<input type="checkbox"/> County	<input type="checkbox"/> Loadout
	Phase II	<input type="checkbox"/> Fee	<input type="checkbox"/> Processing
	Phase III	<input type="checkbox"/> Other	<input type="checkbox"/> Reprocessing

Report summary and status for pending enforcement actions, permit conditions, Division Orders, and amendments:

The purpose of this site visit was to conduct a complete inspection at the SUFCO mine.
Five notices of violation were issued at the waste rock site for the following non-compliance issues:
13148 Failure to convey runoff from the waste rock site to the sediment pond;
13149 Failure to protect topsoil during construction of the waste rock site;
13150 Failure to protect topsoil at the #1 topsoil storage site;
13151 Failure to conduct mining activities only as described in the approved MRP (topsoil removal & stockpiling)
13153 Failure to conduct mining activities only as described in the approved MRP (waste rock berm)

EXHIBIT I

Inspector's Signature:

Joe Helfrich
Joe Helfrich

Date Tuesday, October 7, 2014

Inspector ID Number: 1

Note: This inspection report is prepared under the authority of the Division of Oil, Gas and Mining, a program of the Department of Natural Resources, State of Utah. For more information, contact the Division of Oil, Gas and Mining, telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • www.ogm.utah.gov



Permit Number: C0410002
 Inspection Type: COMPLETE
 Inspection Date: Tuesday, September 23, 2014

Inspection Continuation Sheet

REVIEW OF PERMIT, PERFORMANCE STANDARDS PERMIT CONDITION REQUIREMENTS

1. Substantiate the elements on this inspection by checking the appropriate performance standard.
 - a. For COMPLETE inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check Not Applicable.
 - b. For PARTIAL inspections check only the elements evaluated.
2. Document any noncompliance situation by reference the NOV issued at the appropriate performance standard listed below.
3. Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
4. Provide a brief status report for all pending enforcement actions, permit conditions, Divison Orders, and amendments.

	Evaluated	Not Applicable	Comment	Enforcement
1. Permits, Change, Transfer, Renewal, Sale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Signs and Markers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Topsoil	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.a Hydrologic Balance: Diversions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.b Hydrologic Balance: Sediment Ponds and Impoundments	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.c Hydrologic Balance: Other Sediment Control Measures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.d Hydrologic Balance: Water Monitoring	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.e Hydrologic Balance: Effluent Limitations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Explosives	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Disposal of Excess Spoil, Fills, Benches	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Coal Mine Waste, Refuse Piles, Impoundments	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Noncoal Waste	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Protection of Fish, Wildlife and Related Environmental Issues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Slides and Other Damage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Contemporaneous Reclamation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Backfilling And Grading	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Revegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Subsidence Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15. Cessation of Operations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.a Roads: Construction, Maintenance, Surfacing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.b Roads: Drainage Controls	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Other Transportation Facilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Support Facilities, Utility Installations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS Check	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Air Quality Permit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21. Bonding and Insurance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22. Other	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. Permits, Change, Transfer, Renewal, Sale

The permit was renewed effective 5/21/2012 for five years.

2. Signs and Markers

Signs containing the required information were posted at the entrance to the mine site.

3. Topsoil

N13149 was issued at the waste rock site for failure to protect topsoil during the construction of the waste rock site. The violation occurred between the waste rock site and the sediment pond. There was no information in the plan (maps or narrative that described this activity). The abatement requires the submittal of plans to contemporaneously reclaim those areas subject to unnecessary compaction during construction of the waste rock expansion site. Plans are due on October 17th by 5:00 PM and need to be implemented before the NOV can be terminated.

N13150 was issued at the waste rock site for failure to protect topsoil at the #1 top and subsoil storage area (see more detail under 4a). Plans are required to demonstrate that the berm is adequately sized to prevent soil loss. Abatement plans are due on October 17th by 5:00 PM and need to be implemented before the violation can be terminated. Past discussions (personal conversations with Mike Davis & Vicky Miller) regarding the ability of the berm to prevent soil from comingling with undisturbed drainage due to the variability in the depth and width of the berm have resulted in requests by Division staff to demonstrate the adequacy of the berm.

N13151 was issued at the waste rock site for failure to conduct mining activities only as described in the approved MRP. Plans are required to revise the surface facility maps (2v6 & 4v4) to show the boundaries of the .54 acre waste rock expansion area and current size and location of topsoil storage # 2 by 5 :00 PM October 31. Revisions to the MRP need to be approved before the violation can be terminated.

4.a Hydrologic Balance: Diversions

Portions of the diversion around the # 1 top and subsoil piles at the waste rock site have been eliminated. This will allow subsoil to comeingle with disturbed area drainage from the county road pad. The movement of the soil material compromises the ability of the material to establish vegetation.

N13153 was issued for failure to conduct mining activities only as described in the approved MRP. The abatement requires the submittal of plans for the berm that has been constructed between between ditch # 1 and the north corner of the sediment pond. Plans need to include the following information: A narrative and maps (2v6, 4v4) that include a detailed description and location of the berm including a typical cross section. A demonstration of the type of material that the berm is constructed of .

If it is viable growth media it will need to be placed in the topsoil storage area. Plans are due by 5 :00 PM on October 31. Revisions to the MRP need to be approved and implemented before the violation can be terminated.

4.b Hydrologic Balance: Sediment Ponds and Impoundments

The sediment pond at the waste rock site is intended to receive runoff from the waste rock area including the expansion of lift 5. This is supported by the narrative located in Volume 3, Part 2 Page 2-4 & Volume 3, Part3, Page 3-1 of the approved MRP. At the time of this inspection runoff from the waste rock area was being impounded. NOV # 13148 was issued for failure to convey runoff from the waste rock site to the corresponding sediment pond. The abatement requires the submittal of plans that clearly demonstrate that the runoff from the waste rock site will be conveyed to the sediment pond. The plans are due on October 17th by 5:00 PM and need to be implemented before the violation is terminated. The sediment ponds (primary, overflow and waste rock) were inspected on 9/23/14 showing no hazards or signs of weakness.

4.c Hydrologic Balance: Other Sediment Control Measures

The sediment controls (silt fences) at the waste rock site should be checked by the company to determine if they meet the design criteria associated with the diversions they are placed in.

4.d Hydrologic Balance: Water Monitoring

Water monitoring data (hard copies) was available for review at the mine. DMR's were current through July of 2014.

4.e Hydrologic Balance: Effluent Limitations

There were no discharges from point 001A and no exceedances from points 002A and 003A. Hard CC's of the monitoring data for these points were available and current through 7/14.

7. Coal Mine Waste, Refuse Piles, Impoundments

Approval for the expansion of lift #5 was granted on December 23, 2013. 5 NOVs were issued at the site as a result of this inspection and are described in the text of this document. The refuse pile was inspected 9/18/2014 showing no hazards or signs of weakness..

14. Subsidence Control

Subsidence monitoring is typically evaluated with the submittal of the annual report. A site evaluation will need to be completed after the company has mined beyond the shelters that were eligible for listing on the National Register. The shelters are located somewhat (one of them) near the barrier pillars or gate roads of the 3R, 2S panel. The company has indicated (surface tension cracks from previously mined areas) will not extend beyond these areas and in turn not impact the shelters.

19. AVS Check

An AVS check will be completed during the current mid-term review.

Permit Number: C0410002
Inspection Type: COMPLETE
Inspection Date: Tuesday, September 23, 2014

Inspection Continuation Sheet

Page 5 of 5

20. Air Quality Permit

The air quality permit is in effect as of May 2006 and renewed 03/30/2011 to include the west lease conveyor. The permit is listed in appendix 4-4 of the MRP.

21. Bonding and Insurance

The bond was reduced during the previous mid-term review to 2,874,000. Insurance is current through 07/31/2015. The subsequent mid-term review is ongoing.