Action Taken on Existing Citation
Utah Coal Regulatory Program

1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538 - 5285 Fax: (801) 359-3940

Action on Citation#:	13148
Permit Number:	C0410002
Date Cit. Issued:	10/01/2014

☐ MODIFICATION of ☐ TERMINATION of ☑ VACATION of

☑ NOTICE OF VIOLATION ☐ CESSATION ORDER (CO) ☐ FAILURE TO ABATE CO

Permittee Name: CANYON FUEL COMPANY	Inspector Number and ID:	28	DHADDOCK
Mine Name: SUFCO MINE	Date and Time of Action:	01/12/2015	
Certified Return Receipt Number:	Date and Time of Service:	01/12/2015	

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:

☐ **Modified as follows:**

Reason for modification:

☐ **Terminated because:**

☑ **Vacated because:**
The Division and Canyon Fuel Company entered a Stipulated Agreement to vacate the violation. Based on its evaluation of the facts and arguments, the Division has determined that the purposes of the Utah Coal Mining and Reclamation Act and the compliance the provision of that law and its regulations will be best served by resolution of this matter in accordance with the terms of the Stipulation. If during the period of ninety days following December 11, 2014, there are any sustained violation of the Act or the terms of the MRP that pertain to operation and maintenance of the waste rock storage area, this violation will be reinstated.

Ken May	**DARON HADDOCK**
(Print) Permittee Representative	(Print) DOGM Representative
	Daron R. Haddock
Permittee Representative's Signature - Date	DOGM Representative's Signature - Date

Refer to the "Citation For Non-Compliance" for additional information

Action Taken on Existing Citation
Utah Coal Regulatory Program

1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538 - 5285 Fax: (801) 359-3940

Action on Citation#:	13151
Permit Number:	C0410002
Date Cit. Issued:	10/01/2014

☐ MODIFICATION of ☐ TERMINATION of ☑ VACATION of

☑ NOTICE OF VIOLATION ☐ CESSATION ORDER (CO) ☐ FAILURE TO ABATE CO

Permittee Name: CANYON FUEL COMPANY	Inspector Number and ID:	28	DHADDOCK
Mine Name: SUFCO MINE	Date and Time of Action:	01/12/2015	
Certified Return Receipt Number:	Date and Time of Service:	01/12/2015	

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:

☐ **Modified as follows:**

Reason for modification:

☐ **Terminated because:**

☑ **Vacated because:**
The Division and Canyon Fuel Company entered a Stipulated Agreement filed January 12, 2015 to vacate the violation. Based on its evaluation of the facts and arguments, the Division has determined that the purposes of the Utah Coal Mining and Reclamation Act and the compliance the provision of that law and its regulations will be best served by resolution of this matter in accordance with the terms of the Stipulation.

Ken May	**DARON HADDOCK**
(Print) Permittee Representative	(Print) DOGM Representative
	Daron Haddock 1/27/15
Permittee Representative's Signature - Date	DOGM Representative's Signature - Date

Refer to the "Citation For Non-Compliance" for additional information

FILED

JAN 12 2015

SECRETARY, BOARD OF OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS, AND MINING

DEPARTMENT OF NATAURAL RESOURCES

STATE OF UTAH

REQUEST FOR AGENCY ACTION OF PETITIONER CANYON FUEL COMPANY, LLC	**STIPULATION AND MOTION TO VACATE NOTICES OF VIOLATION AND FOR WITHDRAWAL OF REQUEST FOR AGENCY ACTION** Docket No. 2015-005 Cause No. C/041/0002

The Utah Division of Oil, Gas and Mining ("Division") and Canyon Fuel Company, LLC, Petitioner, ("Canyon Fuel") hereby Stipulate to Vacating the Notices of Violation ("NOVs") that are the subject of this Request for Agency Action ("RAA") and Withdrawal of the Request for Agency Action, and move the Utah Board of Oil, Gas and Mining to enter an order consistent with the terms and conditions of the Stipulation. The Stipulation and Motion are based on the facts as set forth in the Notices of Violations, the arguments and additional facts and information submitted in support of the RAA. Based on its evaluation of the facts and arguments, the Division has determined that the purposes of the Utah Coal Mining and

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Reclamation Act ("Coal Act") and the compliance the provision of that law and its regulations will be best served by resolution of this matter is accordance with the terms of this Stipulation.

STIPULATION AND MOTION

Recitals

1. Notice of Violation No. 13148 alleges a "failure to convey runoff from the waste rock site to the sediment pond" by Canyon Fuel. The regulation cited is R645-300-143, failure to comply with the terms of the permit, and refers to volume 3, part 2 page 2-4 and Part 3 page 3-1of the Mine Reclamation Plan ("MRP").

2. Notice of Violation No. 13151 alleged "failure to conduct operations as described in the approved MRP" citing R654-300-142. This violation involved submitting as-built information regarding removal and placement of topsoil at the waste rock expansion site.

3. Canyon Fuel has stated that the alleged violations were the result of unanticipated conditions at the waste rock disposal site resulting in the removal of more topsoil than anticipated and in the creation of areas to be filled by waste rock that were deeper than expected and not as originally planned and approved by the Division. Canyon Fuel also explained that although a recent rainstorm had occurred while the expansion of the waste pit was under construction resulting in unanticipated ponding, that all runoff was either directed to the sedimentation pond or ponded in a small disturbed portion of the waste pit expansion that was within the permit boundary and that the waters evaporated or percolated into the ground. These allegations are not disputed by the Division.

4. Canyon Fuel acknowledges that the MRP was supposed to be revised with as-built information to reflect the new conditions of the waste disposal site and top soil storage

areas, but reasonably believed it was acceptable to make the 'as built' revisions after an anticipated fly-over of the area.

5. The regulations and portions of the MRP are not entirely clear as they may be applied to these facts both as to the obligation to prevent ponding, and the time for making revisions to the MRP.

6. Canyon Fuel has taken all actions required by the NOVs to prevent ponding in the waste rock storage area, to convey runoff from the waste rock facility, and to submit plans and narrative of the locations and volumes of topsoil storage.

7. Canyon Fuel has a history of having no violations of the Act and the terms and conditions of its permit at this mine for a period of more than one year, and has a company goal of avoiding any violations at this mine.

8. The Division has an obligation to enforce the Act, and its regulations and to ensure that operators conduct coal mining operations in compliance with the terms and conditions of their approved permits.

9. The alleged violations that are the subject of this appeal were not willful, and were the result of a combination of unexpected events and misunderstandings regarding on-going work and submittal of as-built drawings. There are factual discrepancies regarding the facts of the alleged violations and the Division has the burden of demonstrating there were violations as alleged. The alleged violations did not result in or create a risk of environmental damage or harm.

10. Successful enforcement of these alleged violations by the Division in this action may increase appreciation for the need to conscientiously adhere to the both the letter and spirit of the MRP, but will result in a relatively small monetary fine that would not provide any

incentive toward compliance and that may damage the working relationship between the operator and the Division and be detrimental to the purposes of the Act.

11. Alternatively the provision contained in this Stipulation are intended and believed to have the effect of encouraging the operator's efforts to comply with the Act while acknowledging that the Division inspector's concerns were not trivial or without merit and that the operator could have taken better efforts to avoid problems.

12. The Division and Canyon Fuel having considered the facts and the respective interests with the intention of improving the future communications and achieving full compliance with the Act, desire to resolve these NOVs and this resulting appeal to the Board according to the following terms and conditions.

Terms and Conditions

Subject to approval by the Board of this Stipulation the parties agree as follows:

A. Notices of Violation Nos. 13148 and 13151 that are the subject of this appeal shall be vacated by the Division and shall be of no further force or effect including any reporting requirements, subject only to a reservation of the right of the Division to reinstate NOV No. 13148 as provided herein.

B. If during a period of ninety days from the date of the filing of the Request for Agency Action there are any sustained violations of the Act or the terms of the MRP that pertain to operation and maintenance of the mine waste storage area and control of runoff from this area at the Sufco Mine, then Notice of Violation No. 13148 shall be reinstated by the Division without right to appeal.

C. During the ninety-day period from the date of the filing of the Request for Agency Action Canyon Fuel will not be precluded from challenging the fact or penalty for any

other alleged notices of violations pertaining to operation and maintenance of the mine waste storage area and control of runoff from this area at the Sufco Mine.

D. Upon approval of this Stipulation by the Board, Canyon Fuel will withdraw the Request for Agency Action.

Motion

Canyon Fuel and the Division do hereby jointly move the Board to approve this Stipulation.

Agreed to and submitted this 12th day of January 2015.

Steven F. Alder,
Assistant Attorney General
Utah Attorney General
Counsel for
Utah Division of Oil, Gas and Mining

William Prince
DORSEY & WHITNEY LLP
Attorneys for
Canyon Fuel Company, LLC

ORDER

Based upon the Stipulation to Vacate the Notices of Violation and Withdrawal of the Request for Agency Action filed herein, and for good cause appearing therein;

It is HEREBY ORDERED as follows:

The Stipulation is approved.

Dated this 14th day of January, 2015

FILED

JAN 14 2015

SECRETARY, BOARD OF OIL, GAS & MINING

Board of Oil, Gas and Mining

Ruland J. Gill, Chair

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