

Document Information Form

Mine Number: C/043/001

File Name: Outgoing

To: DOGM

From:

Person SANDY PEREZ

Company N/A

Date Sent: MARCH 12, 1980

Explanation:

CERTIFICATE OF AUTHENTICITY

cc:

File in: C/043/001, 1980, Outgoing

Refer to:

- Confidential
- Shelf
- Expandable

Date _____ For additional information

CERTIFICATE OF AUTHENTICITY

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, Sandy Perez certify that I am the custodian of the file on the matter of the Blackhawk Coal Mine operated by Utah Coal and Energy kept by the State of Utah Division of Oil, Gas and Mining in the normal cause of executing the duties of that agency and that the attached:

- 1. "Compliance Order And Schedule". case No. ACT/043/001. November 29, 1978.
- "Order to Show Cause" November 7, 1978.
- Letter to Clem Caparelli, November 8, 1978.
- On-site inspection report, November 28, 1978. (Inspection made on October 31, 1978)
- Abatement Order, February 28, 1979.
- Proof of Publication, March 22, 1979.
- PP. 1, 2 + 56 to 62, transcript of January 23, 1980 hearing before Bd. Oil, Gas & Mining.

are true and correct copies of those records.] I certify further that the records of the Division of Oil, Gas and Mining do not contain an approval as of any date of any Mining and Reclamation Plan filed by Utah Coal and Energy for its Blackhawk Coal Mine.

DATE March 12, 1980 BY Sandy Perez

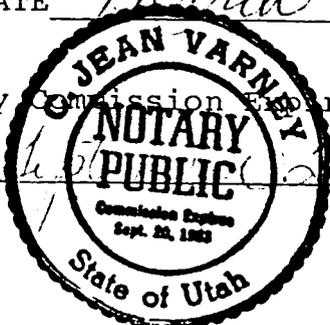
Subscribed this 12th day of March 1980.

DATE March 12, 1980 BY Jean Varney
Notary Public

My Commission Expires:

September 20, 1983

Residing in: Salt Lake City, Utah



CERTIFICATE OF AUTHENTICITY

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

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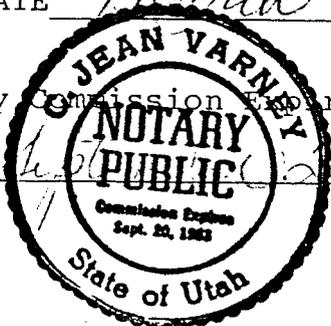
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DATE March 12, 1980 BY Sandy Perez

Subscribed this 12th day of March 1980.

DATE March 12, 1980 BY Jean Varney
Notary Public

My Commission Expires:



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Refer to Record No. 0007 Date 3-12-80

In C1043/001, 1980, Outgoing

For additional information

Inter City

CERTIFICATE OF AUTHENTICITY

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, Lamara Edge certify that I am the custodian of the file on the matter of the Blackhawk Coal Mine operated by Utah Coal and Energy kept by the State of Utah Division of Oil, Gas and Mining in the normal course of executing the duties of that agency and that the attached:

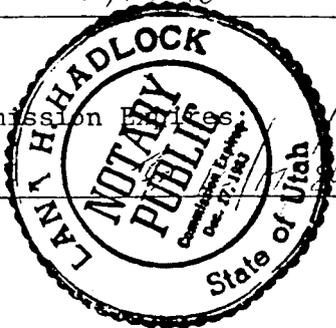
MR Form 1, Dated 11/18/77;
MR Form 2, Dated 11/16/77;

are true and correct copies of those records.

DATE March 12, 1980 BY Lamara Edge
Subscribed this 12th day of March, 1980.

DATE 3/12/80 BY Lana Hadlock
NOTARY PUBLIC

My Commission Expires: _____



BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
in and for the STATE OF UTAH

IN THE MATTER OF THE VIOLATION OF)
BOARD ORDER BY UTAH COAL & ENERGY,) ORDER
INC., BLACKHAWK MINE, SECTION 36,) NO. ACT/043/001
TOWNSHIP 3 NORTH, RANGE 6 EAST,)
SUMMIT COUNTY, UTAH.)

This cause came on for hearing before this Board on the 23rd day of January, 1980, in Room 232 of the Holiday Inn, 1659 West North Temple, Salt Lake City, Utah. The following Board members were present:

Charles R. Henderson, Chairman
John L. Bell, Board Member
Edward T. Beck, Board Member
E. Steele McIntyre, Board Member
C. Ray Juvelin, Board Member

Also present and representing the Division were:

Cleon B. Feight, Director
Ron Daniels, Coordinator of Mined Land Development
Joe Helfrich, Reclamation Officer
Jim Smith, Reclamation Soils Specialist
Mary Ann Wright, Reclamation Biologist
Mike Thompson, Engineering Geologist
Mike Minder, Reclamation Engineer
Thalia Busby, Administrative Secretary
Denise Dragoo, Special Assistant Attorney General

Appearances were made as follows:

For Utah Coal and Energy:
Philip Fishler, Attorney at Law
Clem G. Cafarelli, President of Utah Coal and Energy

NOW THEREFORE, the Board having heard the testimony of each party and having considered the evident and being fully advised in the premises, now makes and enters the following:

FINDINGS OF FACT

1. Proper procedures for service of notice and publication of this matter were followed under the Utah Coal Mining and Reclamation Act (Chapter 10, Title 40, Utah Code Annotated).

2. The Board has jurisdiction over this matter under the Utah Coal Mining and Reclamation Act (Chapter 10, Title 40, Utah Code Annotated).

3. The Board issued a Compliance Order and Schedule of Compliance on November 29, 1978 requiring Utah Coal and Energy Company to obtain an approved notice of intent to mine and to otherwise bring the Blackhawk Mine into compliance with the Utah Mined Land Reclamation Act of 1975, Title 8, Chapter 40, Utah Code Annotated or to appear before the Board on January 31, 1979 to show cause why mining activities should not be halted at said mine. Utah Coal and Energy failed to meet the requirements of the Board's Compliance Order and on February 1, 1979, the Board ordered that Utah Coal and Energy obtain an approved Notice of Intent and post a performance bond in a timely manner. On February 28, 1979 the Board issued an Abatement Order halting all mining activities at the Blackhawk Mine until Utah Coal and Energy obtained an approved Notice of Intent to Mine and posted a \$15,000.00 performance bond with the Division.

4. On March 20, 1979, a new and more stringent Coal Mining and Reclamation Act was implemented into State law at Section 40-10-1 et. seq. Utah Code Annotated.

5. The Division of Oil, Gas and Mining conducted an inspection of the Blackhawk Mine and found mining activities occurring at such operation without an approved permit to conduct such activities. Such mining activities were determined by the Division to be in violation of the Board Abatement Order of February 28, 1979 and the Utah Coal Mining and Reclamation Act.

6. On the 19th of December, 1979, the Division issued an immediate cessation order halting all mining and associated activities at the Blackhawk Mine, Summit County, Utah, pursuant to Section 40-10-22, Utah Code Annotated, (1953). On such date, the Division issued an order to show cause requesting Utah Coal and Energy, Inc. to appear before the Board and show cause why said operation should not be fined and permanently enjoined from conducting further mining operations without an approved permit.

7. The issues before the Board are as follows:

(a) Were activities being conducted by Utah Coal and Energy on the date of Division inspection "mining activities" within the terms of the Act;

(b) If mining activities were occurring at the site, and the Division's cessation order properly issued, what fine will be assessed by the Board for said violations of the Utah Coal Mining and Reclamation Act.

CONCLUSIONS OF LAW

1. The testimony shows that the Division inspection of Blackhawk Mine which lead to the issuance of the December cessation order found an employee of Utah Coal and Energy operating a caterpillar tractor on the access road to the main portal of the Blackhawk Mine. This activity falls within the definition of surface mining operations at Section 40-10-3(18) which states:

"Surface coal mining operations" mean:

(a) Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of 40-10-18, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect inter-state commerce...

(b) The areas upon which the activities occur or where the activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of activities and for haulage and excavations, workings, impoundments, dams...

The above definition is inclusive of almost any activity or area of activity associated with a mining operation. Therefore, the activity of the caterpillar, whether stabilizing an erosion problem associated with the mining operation or transferring equipment for use at the mine would constitute "surface mining operations" within the meaning of Section 40-10-3(18), Utah Code Annotated. Therefore, the Board determines that the activity discovered by the Division upon inspection of the Blackhawk Mine was a surface mining operation. Further,

the Board determines that the Division was correct in issuing a cessation order halting such activity pursuant to Section 40-10-22, Utah Code Annotated in that the operator had failed to obtain the necessary permit to conduct mining at the Blackhawk Mine, Summit County, Utah.

2. Section 40-10-20(1), Utah Code Annotated, requires that any violation which leads to the issuance of a cessation order such as that issued in this matter must be assessed a civil penalty by the Board of Oil, Gas and Mining. This penalty can be no less than \$750.00 and no more than \$5,000.00 for each violation. Therefore, the Board will assess a fine of \$5,000.00 for the issuance of the cessation order. However, \$4,250.00 of such fine will be suspended if the operator pays the \$750.00 fine to the Division within 30 days of the date of this hearing and if the operator submits a performance bond of \$15,000.00, updated mining and reclamation plan and other submissions necessary to meet the requirements of the interim regulatory program administered by the Division. Should the operator fail to meet the Board's compliance schedule, the fine will be reinstated to \$5,000.00.

ORDER

THEREFORE, it is ordered by the Board of Oil, Gas and Mining that:

1. The Utah Coal and Energy Company was conducting mining operations in violation of the Board's Abatement Order of February 28, 1979 and the Utah Coal Mining and Reclamation Act, and the Division cessation order halting such activities on December 19, 1979 was correctly applied.

2. The Utah Coal and Energy Company is hereby fined \$750.00 which is due and payable by February 23, 1980.

3. The Utah Coal and Energy Company shall submit a mining and reclamation plan, a performance bond of \$15,000.00 and any other submissions necessary to meet application requirements under the interim regulatory program for surface mining by April 23, 1980.

ORDER
ACT/043/001

4. In the event that Utah Coal and Energy fails to comply with the provisions of either paragraph 2 or 3 of this Order, the Board will increase the company's fine by \$4,250.00 to a total fine of \$5,000.00.

SO ORDERED this 23rd day of January, 1980.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

File in:

- Confidential
- Shelf
- Expandable

Refer to Record No. 0007 Date 3-12-80

In CI 243/001, 1980, Outgoing

For additional information

for Sandy Perez
THALIA R. BUSBY
Secretary to the Board