

BEFORE THE COMMISSION ON POLLUTION CONTROL AND ECOLOGY

IN THE MATTER OF:
WANDA RICHARDS
PERMIT NO. 0021-X-CO

LIS 84-064

ORDER OF REVOCATION

This Order of Revocation is issued by the Commission on Pollution Control and Ecology (Commission) pursuant to the authority of the Arkansas Surface Coal Mining and Reclamation Act of 1979, Act 132 of 1979, as amended, Ark. Stat. Ann. §§ 52-935 to 52-971 (Supp. 1983) and the Arkansas Surface Coal Mining and Reclamation Code. An Order to Show Cause was issued to Wanda Richards, permittee, on November 1, 1984. A copy of said Order was sent to Richards by certified mail, Number P612827781, in accordance with Section 843.14(b) of the Code, but was refused by Richards on November 3, 1984. A copy of said Order was also sent by first class mail but was likewise refused by Richards on November 3, 1984. A hearing was held at the Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas on December 5, 1984, at 10:00 a.m. The permittee did not appear. Based on the evidence produced at that hearing the Commission makes the following Findings of Fact:

1. The Commission on Pollution Control and Ecology has jurisdiction over this subject matter and the permittee, Wanda Richards, pursuant to Section 24 of Act 132 of 1979, codified at Ark. Stat. Ann. § 52-958 (Supp. 1983).

2. Wanda Richards obtained an exploratory coal mining permit (No. 0021-X-CO) from the Arkansas Department of Pollution Control and Ecology (ADPC&E) in March of 1983.

3. Wanda Richards has engaged in a pattern of violations of the blasting requirements established in the Arkansas Surface Coal Mining and Reclamation Act of 1979 (Act), Act 132 of 1979, as amended, and the Arkansas Surface Coal Mining and Reclamation Code (Code). Such violations were caused by permittee's unwarranted failure to comply with those requirements and were discovered during three inspections within a twelve month period.

A. On August 12, 1983, permittee was issued a Notice of Violation, Number PHW-030-83, for failing to publish a blasting schedule as required by Section 816.64-S of the Code. On January 11, 1984, the same violation was detected and permittee was issued another Notice of Violation, Number WVB-002-84.

B. On January 10, 1984, permittee was issued a Notice of Violation, Number WVB-001-84, Violation 1 of 2, for casting flyrock beyond the line of property owned or leased by permittee in violation of Section 816.65(g) of the Code.

C. On January 10, 1984, permittee was also issued a Notice of Violation, Number WVB-001-84, Violation 2 of 2, for failing to maintain adequate blasting records in violation of Section 816.68 of the Code.

4. Wanda Richards has engaged in a pattern of violations of the berm requirements established in the Act, Code, and permit conditions. Such violations were caused by the permittee's unwarranted failure to

comply with those requirements or conditions. The violations were discovered during three or more inspections of the permit area within a twelve month period.

A. On Page B-4 of the permit conditions, permittee agreed to maintain a one by two feet berm around the permit area.

B. On August 12, 1983, permittee was issued a Notice of Violation, Number PHW-031-83, for failing to maintain the berm around the permit area in violation of Section 771.19 of the Code. On March 23, 1984, the same violation was detected and permittee was issued another Notice of Violation, Number PHW-009-84, violation 1 of 3.

C. Permittee failed to abate the Notice of Violation issued on March 23, 1984, and a Cessation Order was issued on June 21, 1984. Inspections on July 14, 1984, August 21, 1984, September 17, 1984, and November 28, 1984, revealed that the noncompliant condition has not been abated.

5. Wanda Richards has engaged in a pattern of violations of the exploration and reclamation requirements established in the Act, the Code, and the permit conditions. Such violations were caused by the permittee's unwarranted failure to comply with those requirements or conditions. The violations were discovered during three or more inspections of the permit area within a twelve month period.

A. On Page A-4 of the permit conditions, permittee agreed to complete exploration activities by August 31, 1983.

B. On Pages B-2 and B-3 of the permit conditions, permittee agreed to return the permit area to its approximate original contour and complete reclamation efforts.

C. On March 23, 1984, permittee was issued a Notice of Violation, Number PHW-009-84, violation 2 of 3, for failure to complete exploration activities and reclamation efforts in violation of the permit conditions and Sections 771.19, 915.15(d) and 816.100 of the Code.

D. Permittee failed to abate this Notice of Violation and a Cessation Order was issued on June 21, 1984. Inspections on July 14, 1984, August 21, 1984, September 17, 1984, and November 28, 1984, revealed that the noncompliant conditions have not been abated.

E. On March 23, 1984, permittee was also issued a Notice of Violation, Number PHW-009-84, violation 3 of 3, for failure to handle and dispose of toxic or acid forming materials in accordance with Sections 816.48 and 816.103 of the Code.

F. Permittee also failed to abate this Notice of Violation and a Cessation Order was issued on June 21, 1984. Inspections on July 14, 1984, August 21, 1984, September 17, 1984, and November 28, 1984, revealed that the noncompliant conditions have not been abated.

6. Wanda Richards has demonstrated a pattern of violations by failing to respond to Notices of Violation and Cessation Orders in a timely manner. Such action was caused by the permittee's unwarranted failure to respond and comply with the requirements and conditions established in the Act, Code, and permit conditions. The violations were discovered during three or more inspections of the permit area within a twelve month period.

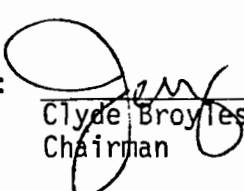
A. On March 23, 1984, permittee was issued three Notices of Violation previously noted in this Order, Numbers PHW-009-84, violations 1 through 3. Permittee failed to abate the violations and after an inspection of June 21, 1984, a Cessation Order was issued.

B. Permittee has failed to respond to the Cessation Order. Four subsequent inspections on July 14, 1984, August 21, 1984, September 17, 1984, and November 28, 1984, revealed that no attempts had been made to comply. The noncompliant conditions have not been abated.

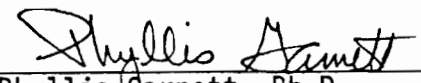
IT IS THEREFORE ORDERED THAT:

Coal Mining Permit Number 0021-X-CO, issued to Wanda Richards, is hereby revoked.

PROMULGATED THIS 25th DAY OF JANUARY, 1985, BY ORDER OF THE
COMMISSION ON POLLUTION CONTROL AND ECOLOGY.

BY:  J. Hill V.P.
Clyde Broyles
Chairman

ATTEST


Phyllis Garnett, Ph.D.
Director