

ARKANSAS DEPARTMENT OF POLLUTION  
CONTROL & ECOLOGY

LOCATION - SUBJECT 01 of           

MINUTE ORDER NO. 85- 03

Revocation, LIS 84-074

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The Commission hereby authorizes the Chairman to sign and issue the Order of Revocation, LIS 84-074, attached hereto.

COMMISSIONERS

[Signature]  
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John P. Laster  
Acting CHAIRMAN

SUBMITTED BY: Cheryl Terai  
Hearing Officer

DATE PASSED: 3-22-85

BEFORE THE COMMISSION ON POLLUTION CONTROL AND ECOLOGY

IN THE MATTER OF  
JACK McCLURE MINING COMPANY  
Jack McClure Bates Reclamation Project  
Permit No. P275-M-CO

LIS 84-074

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) and the Arkansas Surface Coal Mining and Reclamation Code ("Code"). An Order to Show Cause was issued to Jack McClure Mining Company, Inc., Permittee, on December 17, 1984. A hearing was held at the Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas on January 23, 1985 at 10:00 a.m. The Permittee did not appear. The Arkansas Department of Pollution Control was represented by Ellen Carpenter. Testimony on behalf of Arkansas Department of Pollution Control & Ecology was adduced from, and exhibits introduced through, Floyd Durham, Art Ritchie, Wayne Van Buren, Milt Bonner, Hank Wright, Suzan Utley, Wayne Stahl, and Elizabeth Bryant. Based upon the testimony, exhibits and other evidence produced at that hearing, the Commission makes the following Findings of Fact:

1. A copy of the Order to Show Cause was sent to Jack McClure, Jack McClure Mining Company, Inc., P. O. Box 3888, Fort Smith, Arkansas 72913, by certified mail number P612827783, in accordance with Section 843.14(b) of the Code. The return receipt was signed by Frank Brown, Agent, postmarked December 20, 1984, and returned to the Arkansas Department of Pollution Control and Ecology ("ADPC&E").

2. The Commission on Pollution Control and Ecology has jurisdiction over the subject matter and permittee, Jack McClure Mining Company, pursuant to Ark. Stat. Ann. § 52-958.

3. Jack McClure Mining Company, Inc., obtained a coal mining permit (No. P275-M-CO) from ADPC&E on November 30, 1981.

4. Jack McClure Mining Company, Inc., has engaged in a pattern of violations of the requirements established in the Arkansas Surface Coal Mining and Reclamation Code ("Code") and Permit No. P275-M-CO concerning the design, construction and maintenance of surface water diversion structures. Such violations were caused by Permittee's unwarranted failure to comply with these requirements. The first and second violations were discovered during two or more inspections conducted within a twelve month period. The second and third violations were discovered during two or more inspections conducted within a twelve month period.

a. Permittee failed to design, construct, and maintain surface water diversion structures in a manner which prevents additional contributions of suspended solids to streamflow and to runoff outside the permit area in violation of Section 816.43(c) of the Code and as described in Attachment G, Mining Plan, submitted with the permit application and approved by ADPC&E. Permittee was issued Notice of Violation MPE-0021-82 on June 9, 1982 for this violation.

b. Permittee failed to design, construct, and maintain diversion structures in violation of Section 814.43(c) of the Code. Permittee was issued Notice of Violation MPE-0044-82 on December 13, 1982 for this violation.

c. Permittee failed to design, construct, and maintain diversion structures in violation of Section 816.43(c) of the Code. Permittee was issued Notice of Violation PHW-050-83 on September 14, 1983 for this violation.

5. Jack McClure Mining Company, Inc., has engaged in a pattern of violations of the following requirements established in the Code and Permit No. P275-M-C0. Such violations were caused by Permittee's unwarranted failure to comply with these requirements. These violations were discovered during inspections conducted within a twelve month period.

a. Permittee failed to design, construct or maintain sediment control measures as required by Section 816.45(b)(6) of the Code. Permittee was issued Notice of Violation PHW-049-83 on September 14, 1983 for this violation. This section of the Code is designed to prevent water pollution and sediments from leaving the permit.

b. Permittee violated Section 771.19 of the Code by failing to follow the mining plan which states that the operation would be a shaker screen type operation. The operation inspected was a wash plant facility. The ponds and ditches designed for a shaker screen type operation are not designed to handle the runoff from a wash unit which could contribute to the degradation of water off the permit and soil contamination off the permit. Permittee was issued Notice of Violation PHW-048-83 on September 14, 1983 for this violation.

c. Permittee violated Sections 771.19, 816.52(b)(1)(iii) and 816.42(a)(7) of the Code. The operator failed to monitor the discharge of water as required by Water Permit No. 2656-W. The results of samples taken on September 9, 1984, showed a pH of 3.2. Permittee was issued Notice of Violation PHW-056-83 on September 14, 1983 for this violation.

6. Jack McClure Mining Company, Inc. has engaged in a pattern of violations of the following requirements established in the Code. Such violations were caused by Permittee's unwarranted failure to comply with these requirements. These violations were discovered during inspections conducted within a twelve month period.

a. Permittee failed to submit to the Director a Notice of Intention to close or abandon mining and reclamation operations in violation of Section 816.131(b) of the Code. Permittee was issued Notice of Violation SGU-015-84, 1 of 2 on October 19, 1984 for this violation.

b. Permittee failed to perform contemporaneous reclamation in violation of Section 816.100 of the Code. Permittee was issued Notice of Violation SGU-015-84, 2 of 2 on October 19, 1984.

7. Jack McClure Mining Company, Inc. has demonstrated a pattern of violations by failing to respond timely to Notices of Violation. Such actions were caused by Permittee's unwarranted failure to timely respond and comply with the requirements and conditions established in the Code and Permit No. P275-M-C0. The violations were discovered during three or more inspections of the permit area within a twelve month period.

a. Permittee failed to abate Notices of Violation PHW-050-83, PHW-049-83, PHW-048-83, and PHW-056-83 previously cited and issued on September 14, 1983. A Cessation Order was issued on December 13, 1983 for the failure to abate these violations.

b. Permittee failed to respond to the Cessation Order issued December 13, 1983. Inspections conducted on February 7, 1984, March 13, 1984, April 17, 1984, May 24, 1984, July 20, 1984, August 13, 1984, September 20, 1984, October 28, 1984, November 29, 1984, December 1, 1984 and January, 1985, revealed that no attempts have been made to abate the violations covered by the Cessation Order issued on December 13, 1983.

c. Permittee failed to abate Notices of Violation SGU-015-83, 1 of 2, and SGU-015-83, 2 of 2 previously cited and issued on October 19, 1984. Inspections conducted on November 29, 1984, December 1, 1984 and January, 1985, revealed that no attempts have been made to abate these violations.

8. Jack McClure Mining Company, Inc. has failed to pay penalties assessed and due and payable in accordance with Ark. Stat. Ann. § 52-952 and Part 845 of the Code.

These violations were caused by the permittee's unwarranted failure to comply with those requirements.

a. Permittee failed to pay One Thousand Three Hundred Dollars (\$1,300.00) assessed for the violation identified in Notice of Violation PHW-048-83, and presently due and payable.

b. Permittee failed to pay Two Thousand Six Hundred Dollars (\$2,600.00) assessed for the violation identified in Notice of Violation SGU-015-84, 1 of 2, and presently due and payable.

c. Permittee failed to pay Four Thousand One Hundred Dollars (\$4,100.00) assessed for the violation identified in Notice of Violation SGU-015-84, 2 of 2, and presently due and payable.

d. Permittee failed to pay Twenty Two Thousand Five Hundred Dollars (\$22,500.00) assessed pursuant to the Cassation Order issued December 13, 1983 for the failure to abate the violations identified in Notices of Violation PHW-048-83, PHW-049-83, and PHW-056-83, and which is presently due and payable.

IT IS THEREFORE ORDERED THAT:

Coal Mining Permit Number P275-M-CO, issued to Jack McClure Mining Company, Inc., is hereby revoked and that the Thirty Thousand Five Hundred Dollars (\$30,500.00) penalties due and payable shall be paid to ADPC&E in full within thirty (30) days of the date of this Order.

PROMULGATED THIS 22 DAY OF MARCH, 1985, BY ORDER OF THE COMMISSION ON POLLUTION CONTROL AND ECOLOGY.

BY John P. Saxton  
Acting Chairman

ATTEST

Phyllis Garnett  
Phyllis Garnett, Ph.D.  
Director