

MINUTE ORDER NO. 85-38

Corporation - Order  
PAGE 1 OF 1

The Commission hereby authorizes the Chairman to sign and issue the attached Order, LIS 85-037 (Multi-Minerals Corporation).

COMMISSIONERS

DB  
F B NO  
11/22/85  
11/22/85?  
9/19/85  
9/19/85

Phillip Deisch  
CHAIRMAN

SUBMITTED BY: Phillip Deisch DATE PASSED: 11-22-85

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

IN THE MATTER OF:  
Multi-Minerals Corporation  
Permit No. P 204-M-CO

LIS 85-037

ORDER ON PENALTY  
ASSESSMENTS

This matter arises from a Request for Review by Multi-Minerals Corporation of proposed penalty assessments under the Arkansas Surface Coal Mining and Reclamation Act (Act 134 of 19479, as amended; Ark. Stat. Ann. §§ 52-935 to 52-971) and the regulations promulgated thereunder. This matter was the subject of a hearing on the 29th day of August, 1985, before James M. McHaney, Presiding Officer, and the Surface Mining Division appearing and being represented by Phillip Deisch herein and Multi-Minerals Corporation appearing not, although having been properly served with notice of the hearing, and from the testimony and other evidence introduced at the hearing, the Commission doth find:

1. Multi-Minerals Corporation was properly served with notice of the hearing held on August 29, 1985.
2. The recommendations of the Surface Mining Division set forth in the "Assessment Worksheets" and "Assessment Explanations" introduced as State's Exhibits 14, 15, 16, 17, 18, 19, 20, and 21, copies of which are attached hereto and are hereby incorporated herein, should be and are hereby adopted as findings of the Commission in this matter.

3. The violations for which the Cessation Order of February 11, 1985 (introduced as State's Exhibit 11, copy attached hereto) was issued were not abated for over thirty (30) days from the date of issuance of the Cessation Order and, therefore, pursuant to Section 845.15(b) of the Arkansas Surface Coal Mining and Reclamation Code would be assessed \$750.00 per day for thirty (30) days, being in aggregate a total of \$22,500.00.

BE IT THEREFORE ORDERED THAT:

1. Multi-Minerals Corporation is hereby assessed:

- (a) For Notice of Violation SGU-031-84(1), a total of 55 points and a monetary penalty of \$3,500.00;
- (b) For Notice of Violation SGU-031-84(2), a total of 36 points and a monetary penalty of \$1,600.00;
- (c) For Notice of Violation SGU-031-84(3), a total of 27 points and no monetary penalty;
- (d) For Notice of Violation SGU-031-84(4), a total of 50 points and a monetary penalty of \$3,000.00;
- (e) For Notice of Violation SGU-031-84(5), a total of 50 points and a monetary penalty of \$3,000.00;

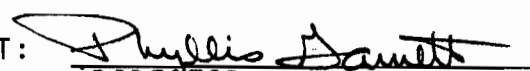
- (f) For Notice of Violation SGU-031-84(6), a total of 50 points and a monetary penalty of \$3,000.00;
- (g) For Notice of Violation SGU-031-84(7), a total of 60 points and a monetary penalty of \$4,000.00;
- (h) For Notice of Violation SGU-002-85, a total of 27 points and no monetary penalty; and
- (i) For the Cessation Order issued on February 11, 1985, \$750.00 per day for thirty (30) days, being an aggregate total of \$22,500.00.

2. Multi-Minerals Corporation shall pay the total sum of \$40,600.00 for the assessments set forth above to the Arkansas Department of Pollution Control and Ecology within thirty (30) days of the date hereof.

SO ORDERED this 22<sup>nd</sup> day of November, 1985.

ARKANSAS COMMISSION ON POLLUTION  
CONTROL AND ECOLOGY

  
CHAIRMAN

ATTEST:   
DIRECTOR



STATE OF ARKANSAS  
 DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY  
 3001 NATIONAL DRIVE  
 LITTLE ROCK, ARKANSAS 72209

SURFACE MINING AND RECLAMATION DIVISION

BEFORE THE ARKANSAS DEPARTMENT )  
 ON POLLUTION CONTROL AND ECOLOGY )

Permit No. P204-M-CO

N.O.V. No. 56U-031-84  
 1, 2, 4, 5, AND 7 OF 7

CESSATION ORDER

TO: MULTI-MINERALS CORPORATION  
14 SKYWAY DRIVE  
LITTLE ROCK, ARKANSAS 72207

The Arkansas Department of Pollution Control and Ecology has determined through inspection that the Notice of Violation dated the 31<sup>ST</sup> day of December, 1984, has not been complied with, and the violation set forth therein has not been abated within the abatement period fixed or subsequently extended by the Department. The Department has therefore determined that it is necessary to cause you to cease operations.

Wherefore, you are hereby ordered to immediately cease surface coal mining operations, until the violations and conditions set forth therein have been abated in conformance therewith.

DATED this 11<sup>TH</sup> day of FEBRUARY, 19 85.

Director of Pollution Control and Ecology

Susan G. Utley  
 Authorized Representative

Business Office: (501) 562-7444  
 Field Office: (501) 968-7339

Acknowledgement of Receipt:

Name: \_\_\_\_\_

Title: \_\_\_\_\_



1/24/85 MS

Assessment Worksheet

NOV # SGU-031-84

CO # NA  
P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 1 of 7

POINTS

1. History of previous violations 11 NOVs, 5 COs 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence 5

(2) Extent of potential of actual damage 12

B. Obstruction to enforcement           

Total Seriousness 17

3. Negligence 8

4. Good Faith           

TOTAL POINTS 55

- ASSESSMENT \$3500

- \* PHW-001-84, 1 thru 2, dated 1/17/84.
- PHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



## ASSESSMENT EXPLANATION

NOV # SGU-031-84CO # NAName of Company Multi-Minerals Corporation P204-M-COViolation # 1 of 7History of previous violations: 11 NOV's, 5 CO's — 30 points

Seriousness: (either A or B)

## A. (1) Probability of occurrence:

Inspector indicated that the new operator is likely to go off the permit if the markers are not installed. The perimeter markers are needed on the north and west sides — the creek is on the west side — five (5) points assessed.

## (2) Extent of actual or potential damage:

If the damage were to occur it would be off the permit and probably infringe on the stream buffer zone. This could be environmentally detrimental to a stream and off permit vegetation and topsoil — eleven (12) points assessed.

## B. Obstruction to enforcement:

## Negligence:

The violation and the quarterly inspection firm suggest that there were markers on the east and south sides indicating that there was a past effort; however, maintenance has been lacking — eight (8) points assessed.

## Good Faith:

1/24/84 MB

Assessment Worksheet

NOV # SGU-031-84

CO # NA

P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 2 of 7

POINTS

1. History of previous violations 11 NOVs, 5 COs 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence \_\_\_\_\_

(2) Extent of potential of actual damage \_\_\_\_\_

B. Obstruction to enforcement 4

Total Seriousness 4

3. Negligence 12

4. Good Faith \_\_\_\_\_

TOTAL POINTS

36

- ASSESSMENT \$1600

- \* PHW-001-84, 1 thru 2, dated 1/17/84.
- PHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-031-84

CO # NA

Name of Company Multi-Minerals Corporation P204-M-CO

Violation # 2 of 7

History of previous violations: 11 NOV's, 5 CO's — 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

(2) Extent of actual or potential damage:

B. Obstruction to enforcement:

Inspector indicated that the mine identification signs did not have the phone # and the correct permit number. This does not appear to be a major obstruction since the address and permit # are correct. two (2) points for each missing information — four (4) points assessed.

The mine identification sign is something that is observable by the operator each time the permit site is entered, thus no reason or excuse for incorrect information — ten (10) points assessed. The mine site has been shut down and the contract miner is making efforts to correct preexisting violations.

Good Faith:

1/29 MRS

Assessment Worksheet

NOV # SGU-031-84

CO # NA  
P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 3 of 7

POINTS

1. History of previous violations 11 NOVs, 5 COs 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence 5

(2) Extent of potential of actual damage 7

B. Obstruction to enforcement         

Total Seriousness

12

3. Negligence

12

4. Good Faith

-27 MRS 8/29/85

TOTAL POINTS

54 27 MRS

ASSESSMENT

\$ 3,400 ~~80~~ - 0 -

MRS 8/29/85

- \* PHW-001-84, 1 thru 2, dated 1/17/84.
- PHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-031-84

CO # NA

Name of Company Multi-Minorals Corporation P204-M-CO

Violation # 3 of 7

History of previous violations: 11 NOVs, 5 COs — 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

Inspector indicated that danger to the public would be likely if the signs were not posted, especially if the blasting were to occur near to the public road — five (5) points assessed.

(2) Extent of actual or potential damage:

Inspector indicated that public danger would more than likely occur on the permit. If the signs were not present, an unsuspecting person could enter the site or approach the site unknowing of the blasting event — seven (7) points assessed.

B. Obstruction to enforcement:

Negligence:

Protection of the public is a major concern and the requirements of a warning sign is obvious — twelve (12) points assessed.

Good Faith:

1/24/85  
1113

Assessment Worksheet

NOV # SGU-031-84

CO # NA  
P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 4 of 7

POINTS

1.	History of previous violations	11 NOVs, 5 COs	<u>30</u>
2.	Seriousness (either A or B)		
	A.	(1) Probability of occurrence	<u>5</u>
		(2) Extent of potential of actual damage	<u>3</u>
	B.	Obstruction to enforcement	<u>      </u>
	Total Seriousness		<u>8</u>
3.	Negligence		<u>12</u>
4.	Good Faith		<u>      </u>
	TOTAL POINTS		<u>50</u>
	- ASSESSMENT		<u>\$3,000</u>

- \* PTHW-001-84, 1 thru 2, dated 1/17/84.
- PTHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PTHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-031-84

CO # NA

Name of Company Multi-Minerals Corporation P204-M-10

Violation # 4 of 7

History of previous violations: 11 NOVs, 5 COs — 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

Inspector indicated that the new operator and associated workers could be unfamiliar with the permit and thus could disturb unmarked topsoil — five (5) points assessed

(2) Extent of actual or potential damage:

If the stockpile was disturbed not much topsoil would be lost. Inspector indicated that not much topsoil was stockpiled. The damage would be restricted to the permit since it would prevent vegetation on the permit — three (3) points assessed.

B. Obstruction to enforcement:

Negligence:

The maintenance and/or installation of topsoil markers is a minor duty, and the importance of topsoil is obvious — twelve (12) points assessed. Inspector indicated that the operator had provided protective cover — it should have been obvious at that time that markers were also needed.

Good Faith:

1/24/85 13

Assessment Worksheet

NOV # SGU-031-84

CO # NA

P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 5 of 7

POINTS

1. History of previous violations 1-1 NOVs, 5 COs 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence \_\_\_\_\_

(2) Extent of potential of actual damage \_\_\_\_\_

B. Obstruction to enforcement 8

Total Seriousness 8

3. Negligence 12

4. Good Faith \_\_\_\_\_

TOTAL POINTS 50

- ASSESSMENT \$3,000

- \* PTHW-001-84, 1 thru 2, dated 1/17/84.
- PTHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PTHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-031-84

CO # NA

Name of Company Multi-Minerals Corporation P204-M-CO

Violation # 5 of 7

History of previous violations: 11 NOVs, 5 COs — 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

(2) Extent of actual or potential damage:

B. Obstruction to enforcement:

The area has been inactive for some time and the new operator has just started as a contract miner and it is very important that groundwater monitoring commence. Monitoring has occurred in the past. Since the mining activities (actual extraction) has just started, obstruction should be considered minor-Negligence: eight (8) points assessed. Surface water monitoring has occurred.

Monitoring of groundwater is a requirement and since it has occurred in the past, the permittee is well aware of the requirements — twelve (12) points assessed.

Good Faith:

1/24/85 WB

Assessment Worksheet

NOV # SGU-031-84

CO # NA

P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 6 of 7 POINTS

1. History of previous violations 1-1 NOVs, 5 COs 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence 5

(2) Extent of potential of actual damage 3

B. Obstruction to enforcement           

Total Seriousness 8

3. Negligence 12

4. Good Faith           

TOTAL POINTS 50

- ASSESSMENT \$3,000

- \* PHW-001-84, 1 thru 2, dated 1/17/84.
- PHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-031-84

CO # NA

Name of Company Multi-Minerals Corporation P204-M-CO

Violation # 6 of 7

History of previous violations: 11 NOVs, 5 COs — 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

Inspector indicated that the loss of stockpiled materials is likely. The thin soil in the permit area makes it mandatory to protect all available soil and/or subsoil materials — five (5) points assessed

(2) Extent of actual or potential damage:

Inspector indicated that if the materials were to be affected it would remain on the permit — three points were assessed

B. Obstruction to enforcement:

Negligence:

Inspector indicated that the permittee was informed about seeding efforts on topsoil stockpiles and should have known that it included subsoil materials — twelve (12) points assessed.

Good Faith:

1/25/85 MB

Assessment Worksheet

NOV # SGU-031-84

CO # NA  
P204-M-CO

Name of Company Multi-Minerals Corporation

Violation # 7 of 7

POINTS

1. History of previous violations 11 NOVs, 5 COs 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence 5

(2) Extent of potential of actual damage 13

B. Obstruction to enforcement         

Total Seriousness 18

3. Negligence 12

4. Good Faith         

TOTAL POINTS 60

- ASSESSMENT \$ 4,000

- \* PHW-001-84, 1 thru 2, dated 1/17/84.
- PHW-007-84, 1 thru 2, dated 3/19/84.
- FDS-011-84, 1 of 1, dated 4/18/84.
- FDS-021-84, 1 thru 3, dated 5/21/84.
- FDS-038-84, 1 thru 3, dated 10/9/84.
- CO-FDS-018-84, dated 5/24/84.
- CO-PHW-007-84, dated 6/19/84.
- CO-FDS-011-84, dated 7/18/84.
- CO-FDS-021-84, dated 8/20/84.
- CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-031-84

CO # NA

Name of Company Multi-Minerals Corporation P204-M-CO

Violation # 7 of 7

History of previous violations: 11 NOVs, 5 COs — 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

Inspector indicated that should the pipe not be replaced the failure of the embankment is likely. Failure would cause erosion, pollution of the Duncun Pannich and possible threat to public safety — five (5) points assessed.

(2) Extent of actual or potential damage:

If the event and subsequent damage were to occur, it would be off the permit and would probably major — thirteen (13) points assessed.

B. Obstruction to enforcement:

Negligence:

The past inspections and violations have indicated that the pond is a problem. Discharges through the existing pipe have been inadequate and discharges have occurred through the emergency spillway — twelve (12) points assessed. The problem with the pond is and has been very evident.

Good Faith:

3/4/85

Assessment Worksheet

NOV # SGV-002-85

CO # NA

Name of Company Multi-Minerals Corporation

Violation # 1 of 1

POINTS

1. History of previous violations 9 NOVs, 5 COs \* 30

2. Seriousness (either A or B)

A. (1) Probability of occurrence 5

(2) Extent of potential of actual damage 7

B. Obstruction to enforcement         

Total Seriousness

3. Negligence

4. Good Faith

12

12

27

54

8/29/85 MS  
8/29/85 MS

TOTAL POINTS

ASSESSMENT

\$3,400.00 - MS 8/29/85

\*PHW-007-84, 1 thru 2, dated 3/19/84.

FDS-011-84, 1 of 1, dated 4/18/84.

FDS-021-84, 1 thru 3, dated 5/21/84.

FDS-038-84, 1 thru 3, dated 10/9/84.

CO-FDS-018-84, dated 5/24/84.

CO-PHW-007-84, dated 6/19/84.

CO-FDS-011-84, dated 7/18/84.

CO-FDS-021-84, dated 8/20/84.

CO-FDS-047-84, dated 11/15/84.



ASSESSMENT EXPLANATION

NOV # SGU-002-85

CO # NA

Name of Company Multi-Minerals Corporation

Violation # 1 of 1

History of previous violations: 9 NOVs, 5 COs - 30 points

Seriousness: (either A or B)

A. (1) Probability of occurrence:

Inspector indicated that the public's safety is likely to be imperiled should the signs not be in place - five (5) points assessed

(2) Extent of actual or potential damage:

Danger to the public would occur to the public on the permit unless the blasting were to occur near the highway; however, buffer zone requirements would most likely prevent that - seven (7) points assessed.

B. Obstruction to enforcement:

Negligence:

The permittee had prevented access from the west; however, the inspector indicated that access is now possible. Thus, it is important that the public have some form of warning in this area - twelve (12) points assessed.

Good Faith: