



Why Following the Law and Keeping Accurate Records Are Important

- They also now realize showing we violated the law is key to winning a quarry case.
- Inaccurate records, even if they don't reflect a violation, play on people's suspicions and affect their perception about whether we are causing damage.
- Accurate records are a must to win any case.
- Don't shoot yourself in the foot.







How Accurate Records help

- If we have a clean history and good records we can pressure the regulatory authorities to help us defend these cases.
- Which of these cases would be easier to defend?





STATE OF ALABAMA

SURFACE MINING COMMISSION

P. O. BOX 2330 - JASPER, ALABAMA 35502-2890 (205) 221-4130

June 28, 2004

Re: Blasting complaint near Graysville, Al

Mr. Richard McFalls Carr & Assoc, Engineers 2052 Oak Mtn. Drive Pelham, AL 35124

Dear Mr. McFalls:

As you requested, I have sent you the accompanying map and the following information on my investigation of blasting complaints on Pine Hill Drive. The mine apparently arousing the complaints is and they have introduced somewhat different, recently taken over this mine from and perhaps one could say, more aggressive, blasting practices. We have not found any violations, however; nor has my monitoring found any ground vibrations or airblasts likely, in my opinion, to cause damage. I monitored at a complainant's home on Pine Hill drive from 5/25/04 until 6/17/04 and found the highest ground vibration to be 0.115 in/s Peak Particle Velocity. I monitored at a neighboring home during the period 2/25/03 until 4/22/03 with a maximum PPV of only 0.095 in/s. These are far below the regulatory limit of 1.0 in/s and the widely recognized lower limit for "Threshold" or minor cosmetic damage of 0.5 in/s. The actual Scale Distances from the blasting to these houses is over 90, the level above which the US DOI Office Of Surface Mining has never found any damage what ever.

The map is more for illustrative purposes than for measurements. I did GPS my most recent complainant's home and what I take to be the nearest point on the active highwall. They are over 6000 feet apart. Because of the great distances from the blast sites to the homes, both the ground vibrations and air overpressures are very low frequency. The air overpressures would largely be below the threshold of human hearing but would create resonance in houses which would be mistaken for ground vibrations. As I noted above, however, I haven't seen anything in my monitoring to suggest there might be blasting damage in the neighborhood, nor would I attribute to blasting any of the conditions I have observed at the complainants houses. If I can be of any further help, please don't hesitate to call.

Bill Kitchens, PG

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STATE OF ALABAMA

SURFACE MINING COMMISSION F. O. BOX 2390 — JASPERÎ, ALABAMA 35502-2390 (2021) 221-4130

April 2, 2002

CERTIFIED MAIL

JASPER AL 35503

Dear Mr.

RE: Blaster Certification No:

On March 13, 2002, an inspection of permit peak particle ground vibration limits for blasting operations had been exceeded on March 11, 2002. Notice of Violation 02-RTW-002 was issued to the supervisor. On June 8, 2001, you were issued a warning letter because you were the supervisor over blasting operations that exceeded peak particle velocity limits on May 23rd, 25th, 30th and 31st of the year 2001.

Please be advised that a hearing has been scheduled to review your continued certification as a certified blaster in light of the above described violations of the blasting regulations. The hearing will be April 25, 2002, at 10:00 a.m. at the offices of the Alabama Surface Mining Commission. The office is located in the Pinnacle Bank Building in downtown Jasper. The purpose of this hearing will be to determine whether or not your certification should be suspended or revoked.

The hearing will be presided over by Director Randall C. Johnson and will be open to the public. You may be represented by an attorney or other representative of your choice should you so desire.

Your failure to attend this hearing may result in the immediate revocation of your blaster certification and surrender of your certificate to the Alabama Surface Mining Commission.

Sincerely,

Golart Gllen

Robert Allen Assessment Officer

/eap



How Accurate Records Help

- Good records allow us to play on people's perception that something that is legal is okay.
- It also shifts the focus from our records to the plaintiff's damages.



How Accurate Records Help

Legal Issues

- Blasting usually imposes strict liability.
- This does not mean you are liable if the plaintiff claims you damaged their property.
- It means you are liable if they prove you damaged their property.
- Due care and compliance with applicable law are no defense but are absolutely necessary to win at trial.



- Blasting cases can be won
 - Compliance
 - Science
 - Explanation



Compliance

- Compliance equates to proper record keeping and following the rules.
- Regulations are based on studies by the Department of Transportation and the U.S. Bureau of Mines.
- If we follow the rules we can rely on studies that say we cannot damage a home.



Compliance

- The only way to prove compliance is through proper record keeping.
- Proper record keeping requires commitment, diligence and deliberateness.
 - Don't confuse commitment and involvement.
 - Don't confuse quickness with deliberate action.



Compliance

- Proper record keeping will help verify that:
 - We care about the public.
 - We follow our own rules.
 - We see the regulations as the minimum standard and hold ourselves to a higher standard.



Science

- Science requires the use of all available technology.
- Electronic detonators are a virtual necessity if you want to win your case.

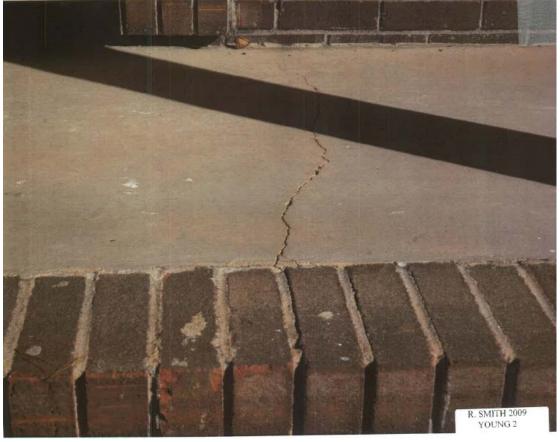


Science

- Pre-blast surveys must be accurate and complete.
- We must use seismographs that are properly calibrated, located and installed.
- Seismographs verify the science behind our blasting.

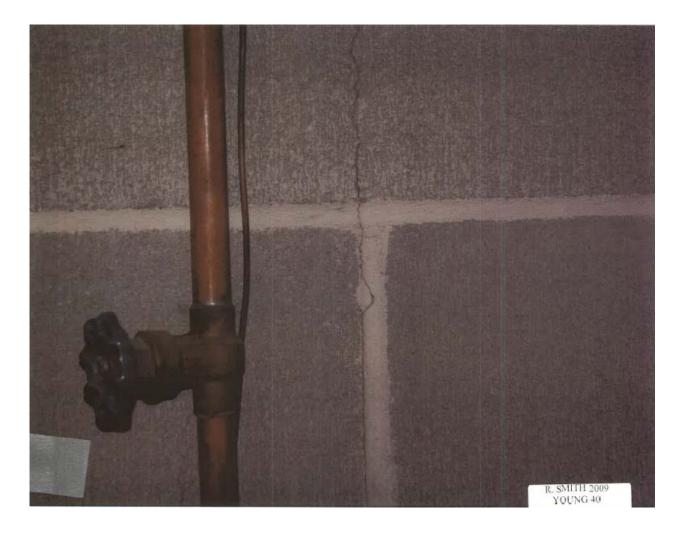




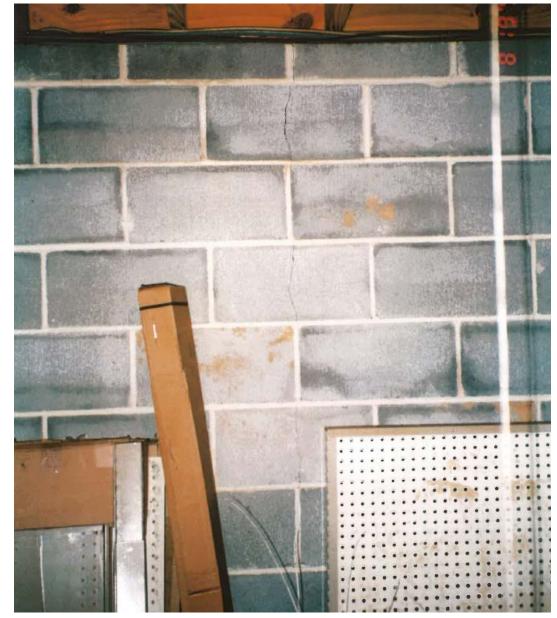
















SAWLS SEISMIC, INC.

SAULS SEISMIC, INC. FIELD REPORT EXISTING CONDITIONS

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SHEET 7 OF 67 SAULS SEISMIC, INC. SUMMARY SHEET OF EXISTING CONDITIONS INSPECTION #: ユコピ CLIENT: DAVID Bun Ks STRUCTURE ADDRESS 2 COCKER Rd. PHONE # 3886439 CITY/STATE/ZIP Jan ML. 35503 · House Exterior y Red pouce Int. beautiful lots of remodeling Kap Tyterior of yarage done on bettern at short · South rown supportly muster both seem atthew out merbed Aut stenior of house Continuese e N.E. 199 and conject to level wall remed w' tops us endus; of house op missing and 5. w. wall in recon outinished a Crack is cone sidewalk on entrance to house. Several conta so come area of poul area of cust yard. I acknowledge I have been offered a complete inspection of my premises but have authorized an exterior inspection only. No claim to the quality of the survey or agreement with the results of the survey is given by your signature. **Authorized Signature** The dimensions shown in this report are approximate only. This document does not report on such matters as structural stability & should be limited & confined to those items specifically set forth in this report

INSPECTOR:

DATE OF INSPECTION:

APPROVED BY:







Science

- With proper seismic readings we can compare the vibration levels caused by our blasting to vibrations caused by:
 - Slamming doors
 - Thunderstorms
 - Thermal heating and cooling
- Science also includes doing pre-blast surveys properly.
 - Before any blasting
 - Complete surveys



Explanation

- Explanation requires proof of what caused the damage.
- We cannot dispute that the damage is there.
- In order to win a case, we must generally show what caused the damage.
 - It was there already
 - Caused by poor construction or poor maintenance
 - Natural settlement
 - Consistent with a house of this age









