



United States Department of the Interior

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
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ALBUQUERQUE, NEW MEXICO 87102

*orig mine file  
a/k May  
L Braxton*



In Reply Refer To:

DEC 11 1987

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SFP

Dr. Dianne R. Nielson, Director  
Division of Oil, Gas and Mining  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, UT 84180-1203

**RECEIVED**  
DEC 14 1987

Re: Belina Mine Complex, TDN 87-02-006-015

DIVISION OF  
OIL, GAS & MINING

Dear Dr. Nielson:

The Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement (OSMRE), has reviewed Utah's Division of Oil, Gas and Mining's (DOGM) response to Ten-Day Notice (TDN) No. 87-02-006-015. Following is our determination:

The Division's response to violation 1 of 8 is appropriate. The plan's requirement for annual pond inspections can be considered a permit defect. The operator submitted a revision application on October 31, 1987, but DOGM should specify a timeframe for its review and approval.

The Division's response to violation 2 of 8 is appropriate. The company's failure to monitor water according to the permit conditions is a violation; however, DOGM's midterm review stipulation should discourage future violations by providing clearer requirements. The problem with the initial permit's plan and the later problem by both operator and DOGM to ensure compliance with that plan indicate a permitting deficiency that may be discussed later as a programmatic issue.

The Division's response to violation 3 of 8 is initially inappropriate. UMC 817.49(e) requires the pond embankment to be revegetated and, as indicated by the operator, DOGM, and OSMRE's field-inspection, it was not completely done. If the operator did seed, mulch, and fertilize the barren area by November 20, 1987, then the violation no longer exists; however, the work's adequacy needs to have been field-verified by a DOGM inspector.

The Division's response to violation 4 of 8 is initially inappropriate. Ponds 2 and 3 are existing structures; thus, their designs in the permit could have addressed the steep slopes and should have reflected the as-built structures' field specifications. This can be considered a permit defect, but DOGM needs to specify a reasonable timeframe for the operator's submission as well as a timeframe for its review and approval. Pond 4 is not an existing structure and does not constitute a permit defect. Material was added to the dam top, making its new specifications different from the approved plan. The operator needs to regrade the dam or obtain an approved revision for the pond's design.

Dr. Dianne R. Nielson

2

The Division's response to violation 5 of 8 is appropriate. The deletion of drainage controls being shown on the mine maps can be considered a permit deficiency. The problem is proposed to be corrected during the permit renewal, but allowing the situation to remain uncorrected for such a long time (until May 1989) may be discussed later as a programmatic problem.

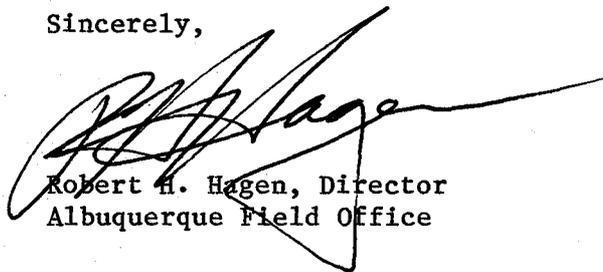
The Division's response to violation 6 of 8 is initially inappropriate. UMC 817.11 requires disturbed area markers and ID signs to be posted and, as acknowledged by the operator, the DOGM inspector, and OSMRE's field inspection, it was not done for the mine office and road area. If the operator did post the sign and markers by November 20, 1987, then the violation no longer exists; however, the work's adequacy needs to have been field-verified by a DOGM inspector.

The Division's response to violation 7 of 8 is inappropriate. UMC 817.49(h) requires all dams to be certified after construction. The operator's commitment to provide the certifications for ponds 01, 02, 03, and 04 without DOGM's citing the violation is considered a warning. This is contrary to the Surface Mining Control and Reclamation Act, Section 521(a)(3),(d) and UMC's 843.12(a)(1) which requires an observed violation to be cited.

The Division's response to violation 8 of 8 is inappropriate. As described above, providing a warning in lieu of citing a violation is not consistent with the Act or Utah's permanent regulatory program.

In summary, DOGM's responses to violations 1, 2, and 5 are appropriate; responses to violations 3, 4, and 6 are initially inappropriate; and responses to 7 and 8 are inappropriate; thus, OSMRE may reinspect the operation. For any questions concerning this determination, please contact Stephen Rathbun, Supervisory Reclamation Specialist, at (505) 766-1486.

Sincerely,



Robert H. Hagen, Director  
Albuquerque Field Office