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BRAZTAH CORPORATION

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October 26, 1979

Mr. Murray T. Smith, Chief
Division of Inspection and Enforcement
Office of Surface Mining - Room 270
1823 Stout Street
Denver, Colorado

Dear Mr. Smith:

As a result of an inspection by Mr. G. Fritz of your office, several Notices of Violation ("NOV") were issued to the Braztah Corporation ("Braztah") mining operation located near Helper, Utah. The following compliance activities have been completed currently or are underway. Prior to such discussion however, the following chronology of events relative to these Notices is set forth.

The Braztah operation was inspected by Mr. Fritz on 21 September 1979. Following this inspection, Mr. Fritz issued Mr. K. B. Hutchinson, Braztah's Chief Engineer, NOV's 79-5-5-30 (1-3), 79-5-5-31 (1-3), 79-5-5-32 (1-3). Mr. Hutchinson subsequently received, by certified letters dated 28 September 1979, and numbered 571619, 571620, 571621, 571622, identical copies of the documents served him one week before, in the field, by Mr. Fritz.

Several days later, Mr. Hutchinson received Notification of Termination of Violations 79-5-5-30 (2&3), 79-5-5-31 (2&3), 79-5-5-32 (2&3) and concurrent Notification of the Issuance of the additional violations defined in NOV 79-5-5-33 (1-5).

Braztah subsequently received a letter dated October 9, 1979, from the Division of Oil, Gas and Mining of the State of Utah ("DOGM"). By said letter DOGM noticed violations substantially the same as set forth above.



As a result of this confusing chain of events, Braztah presently perceives the current Notice of Violation Status as follows:

1. NOV 79-5-5-30 (1) regarding lack of sediment ponds at Castlegate area. Violation mandated installation of temporary sediment control measures and submission of permanent control plans within 60 days of issuance (by 21 November 1979).
2. NOV 79-5-5-31 (1) regarding the lack of sediment ponds at the No. 3 Mine (Hardscrabble Canyon) area. Violation mandated installation of temporary sediment control measures and submission of permanent sediment control plans within 60 days of issuance (by 21 November 1979).
3. NOV 79-5-5-32 (1) regarding the lack of sediment ponds at the No. 5 Mine (Sowbelly Gulch) area. Violation mandated installation of temporary sediment control measures and submission of permanent sediment control plans within 60 days of issuance (by 21 November 1979).
4. NOV 79-5-5-33 (1) regarding the lack of an NPDES Permit for an existing sediment pond at the No. 5 Mine. Violation mandated filing an application for NPDES Permit by 27 October 1979.
5. NOV 79-5-5-33 (2) regarding failure to save re-soiling material at the refuse disposal area, Castlegate Preparation Plant. Violation mandated compliance immediately.
6. NOV 79-5-5-33 (3) regarding the lack of an approved groundwater monitoring plan for the mine plan area. Violation mandated submission of a plan within 30 days (by 27 October 1979).
7. NOV 79-5-5-33 (4) regarding the lack of an approved surface water monitoring plan for the mine plan area. Violation mandated submission of a plan within 30 days (by 27 October 1979).
8. NOV 79-5-5-33 (5) regarding failure to dispose of refuse in an area approved by the Regulatory Authority. Violation mandated submission of plans to the Regulatory Authority within 60 days (by 26 November 1979).

For purposes of this discussion, these violations in addition to the Violations issued by DOGM are grouped as follows:

Group I

Document Submittal Related to Violations - includes NOV's 79-5-5-33 (1), 79-5-5-33 (3), 79-5-5-33 (4), and DOGM Violation 2 and 3; with compliance mandated by 27 October 1979.

Group II

Sediment Control Facility Violations - includes NOV's 79-5-5-30 (1), 79-5-5-31 (1), 79-5-5-32 (1), and DOGM Violation 1; with compliance mandated by 21 November 1979.

Group III

Refuse Area Violations - includes NOV's 79-5-5-33 (2) and DOGM Violation 4; with compliance mandated immediately and 79-5-5-33 (5) with compliance mandated 26 November 1979.

Braztah wishes to advise your office of the following:

1. Compliance activities relative to the Group I Violations were completed by 19 October 1979. Attached for your information are copies of pertinent correspondence relative to these submissions (Attachment 1 & 2).
2. Compliance activities relative to the Group II Violations were, in reality, underway prior to your office's inspection on 21 September 1979. Braztah recognized these deficiencies during early July 1979 and at that time began engineering work on sediment control plan development aimed at addressing the Permanent Program Requirements including Parts 784 and 817. These plans and specifications were finalized and released for bid on 4 September 1979. Concurrently, a capital incumbrance request for the amount of \$270,000 was prepared and forwarded to the property owners New York Office on 7 September 1979. Approval of this request was granted by the owners board of directors on 19 October 1979.

Also during this time, bids were received from several contractors and following authorization of capital, a contract was awarded on 19 October 1979 to the Lowell Gray Excavation Company. The contractor is to begin

construction activity pursuant to the requirements of these plans during the week of 22 October 1979. Additionally, Braztah and the property owner have initiated and completed construction of interim control facilities in the Castlegate area, including the construction of several drainage channels and sediment ponds. This interim activity was terminated with the awarding of the contract. Braztah submits that definitive and long term environmental improvement to the affected areas will be more expeditiously achieved through timely completion of the plan requirements. Construction should be very nearly complete by the 26 November 1979 date specified in the Notices. A copy of the sediment control plans and specs will be forwarded under separate cover for your information (Attachment 3).

As regards the Group III violations, Braztah submits the following:

1. The explanation for Braztah's failure to excavate, segregate, remove, stockpile, and protect topsoil or suitable subsoil in the Castlegate refuse disposal area [reference NOV 79-5-5-33 (2)] is simply that such material is not available or present on the site. Close inspection of the area will reveal that the native soil is, at best, a mere several inches in thickness and is of insufficient uniformity to be removable. Braztah submits that any attempt to remove this material would be at best futile and may possibly result in an increase in the propensity for a landslide. Braztah recognized this unavailability of native soil during the development of Engineering Plans for the disposal area and made the determination at that time to reclaim the area with off site and most likely purchased resoiling material. Braztah respectfully urges that your office terminate or modify NOV 79-5-5-33 (2) to reflect this situation and will gladly supply you with any information including pre-affectation photographs, soil measurements, and engineering testimony you may need in this regard.
2. As regards the Regulatory approval of the refuse area itself, Braztah wishes to advise your office of the following:

- a. The plans for the refuse area were submitted to MSHA for review during 1977. Subsequently the MSHA I.D. number 1211-UT-9-0028 was assigned by that department on 17 November 1977. As you are no doubt aware, MSHA's assignment of an I.D. number in effect constitutes an approval of the facility by that department.
- b. At the time of MSHA submittal and review, copies of the engineering plans were submitted to the State of Utah. Recent discussions with DOGM personnel have indicated, however, that in 1977, DOGM did not issue approval letters for refuse disposal areas. Thus formal approval was not obtained from DOGM.
- c. Braztah submits that the application of §715.15(b) to the refuse disposal areas is in error. Braztah submits that this subsection concerns itself with the disposal of spoil material and not coal refuse in a valley fill. This contention is supported by OSM's response to Interim Regulatory Program Comments as published on page 62646 of the 13 December 1977 Federal Register. Further, informal discussion between representatives of Braztah and OSM - including the inspection and enforcement division and the solicitors office - have substantiated Braztah's position; that being that the Castlegate refuse disposal area is, in terms of the regulations, properly considered an Engineered Refuse Disposal Facility - regulated by MSHA under 30 CFR 77.214 and 77.215 and not a valley fill as defined in 30 CFR 710.4 or regulated under 30 CFR 715.15(b) by OSM.
- d. Braztah will re-file the MSHA application, updated as necessary, with DOGM and OSM prior to 26 November 1979. Our discussions with DOGM have indicated they see little problems with approval of this filing.
- e. As regards the internal drainage within the refuse area, Braztah submits that the site development associated with this facility, in conjunctin with

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the natural geology of the area, has resulted in a substantial deposition of large durable rock which acts as an underdrain beneath the disposal area. Consequently, Braztah submits that the internal drainage in the pile is sufficient to insure stability.

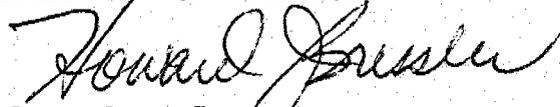
- f. Braztah will submit engineering analysis and response to the specific issues raised in NOV 79-5-5-33(5) at the time of plan submittal.
- g. Braztah urges OSM to reevaluate the GROUP III violations.

Braztah appreciates this opportunity to clarify the circumstances and particulars surrounding these violations and reiterates its continuing policy of complying with the rules and regulations governing the underground mining of coal in Utah.

We will keep you advised of our continuing progress. If you have any questions, please advise.

Very truly yours,

BRAZTAH CORPORATION



Howard J. Bressler,
Vice President
Assistant General Counsel

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Attachments:

1. Copy of NPDES Permit Application
(Letter dated October 15, 1979) w/o attachments
2. Copy of letter to Division of Oil,
Gas and Mining dated October 19, 1979 w/o attachments
3. Sediment Control Plans & Specs (under separate cover)

cc: Division of Oil, Gas and Mining
Department of Natural Resources
State of Utah
1588 West North Temple
Salt Lake City, Utah 84116