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PRICE RIVER COAL COMPANY

P.O. BOX 629 HELPER, UTAH 84526 (801) 472-3411

January 6, 1982

RECEIVED JAN 08 1982 DIVISION OF OIL, GAS & MINING

File ACT/007/004

CERTIFIED MAIL - Return Receipt Requested

Ms. Sandy Pruitt
Reclamation Officer
Utah State Department of Natural Resources
Division of Oil, Gas, and Mining
4241 State Office Building
Salt Lake City, Utah 84114

RE: NAOC 81-2-3-1 and your Letter of December 30, 1981

Dear Ms. Pruitt:

As part of discussions held between you and I on November 24, 1981, in my office, I disagreed with your interpretation of a problem concerning less than 50 cubic yards of material that was removed from our Pond 013. My argument did not sway your convictions and you issued the above referenced NAOC. I continue to maintain that no violation situation exists nor is there any reasonable likelihood of environmental degradation.

During our discussion on November 24, 1981, which followed your inspection on November 23, 1981, you stated that it took a great deal of time in searching the regulations to find a section of law which might apply to this situation. You also stated that the situation was not serious and that an extension to the recommended 30 days (on the NAOC) could be obtained by a written request. I submitted such a request on December 20, 1981. Instead of the promised extension, we have received your December 30, 1981 letter threatening a notice of violation, as a result of which I must set down, for the record, an accurate description of the situation, the basis for our continued disagreement with your interpretation of violation and dispute of the statements made in your December 30, 1981 letter.

No reason → requested more time if not removed. — This is adequate documentation of intentions. JWS agrees.

What has occurred is that we have cleaned our sediment pond as required by UMC 817.46(h). There is no mention in the regulations of what one must do with the materials removed, but it can be safely presumed that it must be handled in an environmentally acceptable manner. We feel that we have done this.

At the time of the pond cleaning operation, one of our people perceived the fine, granular texture of the accumulated sediments and, realizing the future potential use of this material as select bedding for culverts, chose to segregate it. The site chosen for temporary placement was the exact location of original topsoil placement (prior to the archaeological debacle) as indicated on the rough sketch map submitted to DOGM/OSM during November of 1980. The site is directly behind and uphill from the site of our proposed pond for the upper site. About half of the

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excavation of this pond was completed several months ago in an over-zealous attempt on our part to remain in compliance. The result is a depression about 30' square and 4-5' deep. The topsoil in this area has been removed. This was done when we relocated the topsoil storage to its present location in February of 1981.

The composition of the material in question is a combination of silts from fractured shales and colluvial materials encountered in shaft construction and surficial sediments eroded from the channel which carries the water pumped from shaft on its 1,000' journey to the pond, primarily, the latter. These materials were removed from the shaft site pond in a somewhat soupy state and placed in the present location where it achieved the existing configuration; i.e., about 30' in diameter and a few inches to about 1-1/2' high. Most of the moisture drained out of the material, and if we can rely on the force of gravity, into the waiting depression which is the beginning of Pond 013. This low pile of material has stabilized. It had done so at the time of inspection and has not moved since. We have installed a straw dike around the downhill side of the pile, although it serves no true function for environmental protection. This pile is currently frozen solid and under about 4' of snow.

We must maintain that no violation exists. You have cited UMC 817.71 (a) and 771.19 as our violations. 817.71 concerns disposal of underground development waste and excess spoil....., etc. We are not guilty of violation of this section since this material is not "waste" or "excess spoil" and we are not disposing of anything. There is no leachate or run-off that is degrading the environment.

771.19 requires compliance with approvals and all other regulations. Since we have placed this material in a location originally part of an approved topsoil storage site, we do not understand how we could be in violation of Section 771.19.

Your letter begins by stating that we have placed this material in an unauthorized location. We maintain that use of this area has been authorized by the original approvals (which have, to our knowledge, not been retracted) and is on an area included on all plans as part of this development. (Although this phase of construction has not received final official approval, can there by any doubt by anyone on your staff that we do not intend to complete our plans for this complex, thereby mandating some sort of re-distribution of this material.)

Your next statement is mystifying. It is presumed that someone up there must understand that to construct a building that will be 50' x 200' and on 6% grade, some fill will be necessary; perhaps as much as 800 cubic yards. We will certainly use non-coal materials for this construction.

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I do not recall discussing disposal of this material beneath the bathhouse/office site with Mr. Feight. I believe I told him that it would be mixed with the shaft muck. Someone else at this company had a better idea; to use instead of dispose of this material, thus its present location.

The material is not on the site of the proposed pond. I have included an aerial photo, taken on December 16, 1981, which shows the relative locations of both pile and pond. The scale is not exact, but there is about 40 feet between. Even if it were at the same location, it would be both cost and time efficient to move the pile during further pond construction.

In conclusion, we do not understand your concern with this material. We do not believe that any realistic threat of environmental degradation exists, nor does any violation exist, except by the most creative interpretation of the regulations. There is no true imperative to move this material for temporary storage elsewhere. We feel that your forcing us to move this material at this time places an unfair burden of cost on us for no sufficient reason. It continues to be our honest intent to use this material for select bedding for culverts as road and other construction proceeds. Far too much has been made of this situation already. These materials will be re-situated in a timely manner. "Detailed" plans for the disbursement of less than 50 yards of innocuous dirt seems somewhat excessive. As always, we will make every attempt to cooperate to continue to achieve compliance with all performance standards.

Sincerely,

R. L. Wiley

Robert L. Wiley
Environmental Engineer

RLW:ga

cc: Michael Keller, Attorney at Law
Cleon B. Feight, Director, DOGM
Tom Tetting, DOGM
K. B. Hutchinson, PRCC

Encl.