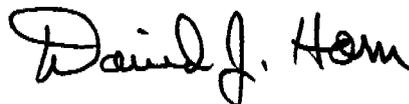


Castle Gate did not actually receive the Notice until November 16, 1990. The Notice granted Castle Gate until 5:00 p.m. on December 19, 1990, to take remedial action. Castle Gate has already, as of the date of this letter, taken the necessary steps ("provide a Certified Report as Required") to remedy the alleged violation. Remedial action was accomplished in ten days, which included a four day holiday weekend, even though the Castle Gate Mine has been indefinitely idle since March of 1989 and has only a minimal work force. In spite of these limitations and the lack of any activity at the refuse pile, Castle Gate has complied with the inspection requirements and has remedied the alleged violation.

It is Castle Gate's understanding that the certification of the inspection report for refuse piles requirement has apparently only recently become law in Utah. The regulations of the Division in the past did not require such certification. As part of its research because of the Notice, Castle Gate has found that the Office of Surface Mining published its approval of the revised Division regulations in April of 1990. In spite of this publication taking place over six months ago, it has been Castle Gate's experience that the new regulations are not widely available. While such availability may not be the fault of the Division or Castle Gate, the fact is the new certification requirement was not known to Castle Gate until now and had it been known this Notice would not have been necessary. On at least one occasion Castle Gate representatives were told that the Division had no copies of the new regulations available. The nation's largest private distribution service for environmental regulations, the Bureau of National Affairs, in its Environmental Reporter still has not distributed the new regulations.

All of these facts and the circumstances should be considered in reducing the amount of the assessment. The information in this letter is submitted for the sole purpose of assessing the penalty and Castle Gate reserves its rights to object to the validity of the violation.

Very truly yours,



David J. Ham  
Senior Attorney

DJH/mg  
cc: B. Evans  
J. Buck