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United States Department of the Interior  
OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
WASHINGTON, D.C. 20240

orig mine file  
WB



cc - Mitchell  
L Perotton  
DRW  
R Daniels  
M A Wright

JUL 23 1991

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

Dear Dr. Nielson: *Diana*

This is in response to your July 8, 1991, letter requesting reconsideration of the decision I rendered pursuant to informal review of ten-day letter number 91-02-246-003 (Blackhawk Coal Company, Willow Creek Mine, ACT/007/002).

In your request, you maintain that in deciding this case, I have shifted the focus away from the regulations alleged to be violated in the ten-day letter by introducing a different regulation (R614-301-413.333) as the basis for affirming the determination of the Albuquerque Field Office Director. In this regard, you argue that your agency should be provided an opportunity to state its position with respect to the newly introduced regulation and, therefore, you submit information intended to demonstrate that the postmining land use delay incurred at the Willow Creek site was justified.

While I agree that it may be appropriate for a State to be given an opportunity to present its position when the basis for an informal review decision changes substantially from that established in a ten-day notice record, I do not believe this is applicable to the Willow Creek case. The reference in my decision letter to Utah regulation R614-301-413.333, among other regulations cited, was intended only to point out the key provisions involved in approving a change in postmining land use. It does not represent the sole basis for my decision that the alternative land use plan in the Willow Creek permit is no longer adequate to demonstrate that there is a reasonable likelihood for achievement of the industrial/commercial postmining land use.

While the additional information you have provided with your letter will be given consideration in resolving this matter, it does not affect the outcome of my June 21, 1991, decision. Accordingly, I hereby instruct the Albuquerque Field Office Director to proceed with the scheduling of the Federal inspection ordered in my previous decision.

Sincerely,

*W. Hord Tipton*

W. Hord Tipton  
Deputy Director  
Operations and Technical Services

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JUL 29 1991

DIVISION OF  
OIL GAS & MINING

cc: Blackhawk Coal Co.  
P.O. Box 700  
Landcaster, Ohio 43130

Robert H. Hagen  
Director, Albuquerque Field Office

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Assistant Deputy Director  
Operations and Technical Services

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