

0054



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

file #5

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May 1, 1991

CERTIFIED RETURN RECEIPT
P 540 713 826

W. Hord Tipton, Deputy Director
Office of Surface Mining
Department of the Interior
1951 Constitution Avenue N.W.
Washington, D. C. 20240

Dear Mr. Tipton:

Re: Appeal of TDN #89-02-107-11(3) Castle Gate Coal Company, Price River Complex
ACT 007/004, Carbon County, Utah

Under the provisions of 30 CFR 842.11(b)(1)(iii)(A) I am asking for an informal review of OSM's April 18, 1991 findings, that the Division's responses to the above TDN are inappropriate.

This is the Division's second appeal of this TDN. In the first appeal to your office you reversed the AFO's finding of an inappropriate response. Evidently they do not agree with you.

You reversed the original AFO finding on the basis of the Division's requirement that the permit be revised to address the deficiencies alleged in the TDN. In December, 1990, as part of a permit renewal action the Division Ordered Castle Gate Coal as follows:

"R614-301-746. Coal Mine Waste. The PERMITTEE must insure that the School House Refuse pile meets all requirements of R614-301-746 and that they are addressed in the MRP. Runoff from above a refuse pile and on the surface of a refuse pile must be diverted into stabilized diversion channels and, uncontrolled drainage may not be diverted over the outslope of the refuse pile. Drainage control must meet the requirements of R614-301-742.300 and be designed to safely pass the runoff from a 100 year 6-hour event. The PERMITTEE must meet these requirements on or before June 1, 1991."

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VB
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tdn 89-02-107-11(3) *RET/0071004*
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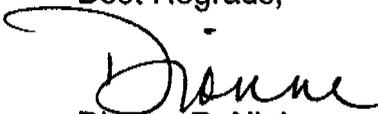
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W. Hord Tipton
Office of Surface Mining
TDN #89-02-107-11(3)
May 1, 1991

The AFO is now finding this part of the Division order (specifically the time frames) inappropriate with respect to the 1989 TDN. I seek reversal of this finding on the basis that: 1) once an informal appeal decision has been rendered, it is inappropriate to reactivate the original compliance action short of formal appeal, and 2) the Division has provided clear direction and a time frame for remedial activity. Failure to comply with terms of the order on Castle Gate's part will result in enforcement action by the Division.

If the above premise has merit, I suppose OSM's option could be to issue another TDN, and ultimately a federal NOV, but I question the propriety of this, given the Division Order presently in place. The Division has not ignored the issue at Castle Gate. I believe the proper oversight role for the AFO is to monitor the resolution provided in the Division Order, rather than reactivate and arbitrarily overrule the previous appeal decision.

Thank you for your support in this matter.

Best Regards,



Dianne R. Nielson,
Director

vb/jb
cc: L. Braxton
D. Haddock
54/30-31