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DEPARTMENT OF NATURAL RESOURCES
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mine file

June 11, 1992

TO: Dianne R. Nielson, Director

FROM: Lowell P. Braxton, Associate Director, Mining *LPB by UB*

RE: Notice of Violation N92-41-3-1, Castle Gate Coal Company, ACT/007/004, Carbon County, Utah

The above-cited NOV was written for "failure to maintain a diversion, and for failure to construct a road drainage culvert to avoid plugging an inlet."

Portion of the operation to which the notice applies: "The opening of a 36" slotted culvert which collects water from the west side of the road above Pond 8 at Hardscrabble Canyon."

Remedial action:

1. "Restore the drop inlet by removing the piece of culvert blocking the opening on the west side of the road."
2. "Submit plans and designs describing the inlet."

The NOV is dated May 15, 1992, and was mailed to the operator following a partial inspection. No representative of Castle Gate Coal Company accompanied the Division inspector on the inspection.

Certification service indicates Castle Gate Coal received the NOV on May 26, 1992. On June 1, 1992, Richard Allison telephoned me asking that this NOV be vacated. Mr. Allison recognizes that the inlet designs are lacking, and requests that submission of these designs be accommodated under the Division Order covering update of operational specifications in the MRP. Mr. Allison felt that the culverts were functional at the time of the inspection, but wanted to verify this before proceeding further.

I discussed these concepts with you during the week of June 1, 1992.

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Memorandum - Dianne R. Nielson
June 11, 1992

On June 8, 1992, Mr. Allison reviewed this culvert situation during a site visit. On June 9, he telephoned me indicating that based on this visit (his first since issuance of the violation), he felt that culverts in the field configuration at the time of the inspection were functional, but routine maintenance to trash racks would accommodate the problem noted in the violation. He also indicated in subsequent discussion on June 10 that the "piece of culvert" noted in the NOV was intended to serve as a baffle, and did not constitute a blockage. He again asked that the NOV be vacated.

Richard indicated a willingness to perform the maintenance as soon as equipment could be mobilized to the site, and again noted that designs covering the subject diversions will be submitted under terms of the Division Order.

Problems of this nature are frequently encountered when operations are suspended, the operator is absentee, and cannot accompany the inspector. In the case of Castle Gate, the Division had identified the need to enhance detail in the MRP, had ordered such enhancement, and had established a schedule for submission in advance of the inspection that triggered the NOV. This would effectively render the second remedial action in the NOV moot, given the operator's acknowledgement of the problem.

Richard Allison's willingness to perform maintenance on the baffles and trash rack at this time suggests that he would have been willing to perform similar maintenance had he been given the opportunity to do so at the time of the inspection. As written, in the NOV, the blockage noted may have been an intentional baffle. Establishment of a case for ineffective drainage structures may be difficult in this case, given lack of approved designs.

I recommend that NOV N92-41-3-1 be vacated, and the subject culvert be visited on a future inspection after the requisite plans have been approved.

Vacation of the NOV does not invalidate the observation made by the Division's inspector in the May inspection. Should future inspections either prior to or subsequent to approval of plans determine that surface waters have not or are not being appropriately diverted through this structure, and that performance standards are being violated, enforcement action should be visited.

vb
cgnov