



State of Utah

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August 17, 1993

TO: James W. Carter, Director

THRU: Lowell P. Braxton, Associate Director ^{LPR}

FROM: Daron R. Haddock, Permit Supervisor *DRH*

RE: Title IV vs. Title V jurisdiction at Trash Canyon, Amax Coal Company, Castle Gate Mine, ACT/007/004, Carbon County, Utah

INTRODUCTION:

A recent investigation of the Trash Canyon area by the AML staff has raised some questions with regard to how a site gets designated as Title IV or Title V and the dates associated with that designation. This memo is being written to provide a clearer picture for making that determination, although there are still some grey areas associated with the transition period. The code of Federal Regulations was reviewed and numerous people were consulted including Richard Holbrook (OSM-WFO) in order to arrive at the conclusions herein.

ANALYSIS:

SMCRA was enacted on August 3, 1977. Any coal mine that operated and was abandoned prior to that date is clearly considered pre-law and is designated Title IV or an AML site. Mines that were in operation prior to August 3, 1977 and continued to operate after that date were allowed a certain time to get in compliance with the requirements of the initial regulatory program and apply for a permit to conduct coal mining operations. There was a six month window and a nine month window. Permits issued after February 3, 1978 (6 month window) and before May 3, 1978 (nine month window) were required to meet only a certain set of relevant performance standards. After May 3, 1978 all of the initial program performance standards kicked in and any mine issued a permit after that date would be responsible for meeting all the requirements of the initial regulatory program.



This brings us to the sites that were not operating prior to August 3, 1977, but obtained a permit and started mining after that date. These mines are clearly considered post-law and are designated Title V subject to the relevant performance standards based on the date of permit issuance. If the permit was issued after May 3, 1978 all of the initial program performance standards apply.

The final category, and perhaps most confusing, are those mines that were operating prior to August 3, 1977 and were then abandoned before May 3, 1978. These sites are not subject to the performance standards of the initial program because they were abandoned prior to the performance standards kicking in. These sites are considered pre-law and are subject to Title IV.

(NOTE: There are also a few special situations dealing with exemptions for small operators that may differ from the above scenarios. They are not considered relevant and will not be discussed in this memo.)

CONCLUSION:

Trash canyon near Castle Gate Mine appears to fit in the last category. There is some evidence that coal mining operations were occurring in Trash Canyon through December of 1977, but nothing that indicates that mining activities were occurring after that date. This being the case, the site would be considered abandoned prior to May 3, 1978 and is therefore considered pre-law and subject to Title IV.

cc: P. Baker
P. Burton
M. A. Wright
TRASCANY.DRH

Jim: Based on records review and field evaluation the mining related activities for the site in question appear to be placement of underground development waste on the surface. Although there do not appear to be deleterious environmental ramifications from placement of these materials, AMH has taken samples to help determine future activity for this site and these materials.

LJB 8-16-93

I've evaluated available records and agree with this conclusion.