



State of Utah

Department of Natural Resources

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Mr. Rex Sacco
1655 W 2100 North
Carbonville, UT 84501

Dear Mr. Sacco:

I am writing to respond to your query concerning grazing of reclaimed coal mining sites. We spoke in Carbon County this summer about this issue. I believe that your question to me, when we discussed this, centered on the notion of changing rules to allow for grazing. Perhaps this letter will help you understand the situation of regulating reclaimed coal mines.

When the Surface Coal Mine Reclamation Act was passed in 1977, Congress declared in section 515 of that Act that coal mining areas receiving less than 26 inches of annual precipitation should have a 10-year bond liability period, versus a five-year period for sites with more rainfall than that. Essentially, that ten-year period applies to almost every coal mine west of the Mississippi. Also, it is in the last two years of that ten-year period that field vegetation "aerial cover" and "plant diversity" measurements are taken and statistical comparisons are made to a designated field "reference area." The reference area is a site that must remain undisturbed from the time of mine permitting through to the final bond release on the mine site. The aerial plant cover on the reclaimed site must meet a statistical measure of 90% of the reference area. In addition, the ten-year liability period does not even begin until the last seeding or other revegetation 'augmentation' has occurred on the ground. The Coal Revegetation rules may be found at R645-301-340. These are available via the state web site at www.utah.gov.

During operations, and during the reclamation phase of a mine, financial assurance (also referred to as a "reclamation bond") is held for the mine property. The reclamation bond is calculated on the basis of the State of Utah needing to complete the work via a contractor. This bond is either a surety bond, for which the mine operator pays premiums, or hard surety such as cash. The money is held in abeyance and is not available to the operator for reclamation. Thus, the reclamation bond is often a large post-mine-production cost and liability to a mining company. With a failure of revegetation, which does occur for a variety of reasons, bonds could be held for 15-20 years.

Shilow Creek file
Original to Rex Sacco
copy to JRB

COAL " PGL
" Dennis Ware

November 28, 2005

Outgoing
#007/0038
and #007/0004
Castlegate

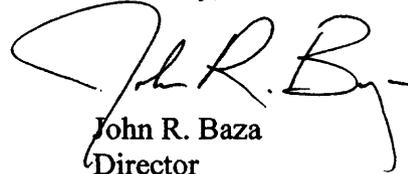
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Your idea of using grazing as an 'augmentation' to assist in the success of reclamation has been studied by researchers hoping to speed up the time to get the bond released to the mine operator. It has been found that extremely careful management of some intense, rotational grazing may boost the success of revegetation. But, even that is still considered controversial. Any action, which would reduce the vegetation cover developing on a site, would not be in the best interests of achieving a designated post-mining land use. To allow for unmonitored grazing of a vulnerable reclamation site would not be a responsible action for an operator to take. The division has had over 25 years of experience with various unfortunate incidences of unauthorized grazing on lands it has reclaimed under the Abandoned Mine Reclamation Program, and cannot endorse such activity.

It is my understanding that you had the opportunity to participate in a bond release field trip in September on this site with some of our coal program personnel. Perhaps some of the on-site discussion allowed for a greater understanding of the revegetation and bond release process that mine operators are subject to under the law. If we need to have another discussion on this, I am available to meet with you further.

Thank you for your input and ideas. We respect your point of view and look forward, along with you, to releasing the site in question from its reclamation bond.

Sincerely,



John R. Baza
Director

cc: Dennis Ware, registered agent for Castle Gate Mine