

orig mine file
cc L. Helfrich
R. Daniels
RECEIVED



United States Department of the Interior
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
219 CENTRAL AVENUE, NW
ALBUQUERQUE, NEW MEXICO 87102

JUN 14 1985

DIVISION OF OIL
GAS & MINING

JUN 12 1985

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

ACT/007/005
#7

RE: State Response to OSM Ten Day Notice 84-2-032-12

Dear Dr. Nielson:

In my letter to you dated January 29, 1985, I indicated OSM had reviewed the DOGM's response to the above ten day notice and found the response to be initially inappropriate. This determination was based on DOGM's position described in a letter of December 27, 1984, that "the laydown area associated with construction of the railcar loadout is within the railroad right-of-way and is not an additional disturbed area". OSM maintained that the rail loadout associated area was, in fact, a coal related disturbance.

In subsequent correspondence DOGM agreed with OSM "that a certain amount of area related to the loadout should be bonded and permitted, and it is..." The company resubmitted permit maps delineating the perimeter to include the loadout area. A letter from the Western Technical Center to the Albuquerque supported the fact that the loadout is permitted. For these reasons OSM now finds DOGM response to TDN 34-2-032-12 to be appropriate.

For your information in the letter of April 26, 1985, the Western Technical Center also stated the following:

"It may be appropriate to remind the operator that construction of the rail spur under the provisions of the 1980 approval would be entirely at their risk, since there is no assurance that the as-built construction plans would be approved. Further, the operator should clearly understand that all activities associated with such construction are subject to the applicable performance standards. This is especially important with regard to topsoil salvage and sediment control."

Dr. Nielson

Page 2

OSM is aware that DOGM is now inspecting that area in regard to performance standards.

If there remains any questions concerning this matter, please call our office.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hagen", written in a cursive style.

Robert H. Hagen, Director
Albuquerque Field Office