



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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TO: Dianne R. Nielson, Division Director
FROM: Paul Baker, Reclamation Biologist *PAB*
DATE: March 23, 1992
RE: Notice of Violation N92-37-1-1

I have found some information and have had some thoughts concerning the above-referenced notice of violation on failure to provide monitoring results of revegetation practices, treatments, and trials. I hope that this will be helpful to you in your deliberations.

The SCS-written conveyor bench revegetation amendment was approved in November 1988, and implementation was begun in 1989. Inspection reports from 1989 refer to the planting that was being performed. 1989 evaluations of the area would have had little information, so it was appropriate that the annual report for that year state that no vegetation monitoring was done.

Priscilla started working for the Division in the fall of 1990, Lynn Kunzler left in December 1990, and I began in May 1991. Priscilla and I did not know of the amendment evaluation requirements until recently; the conveyor revision and permit renewal have been the first opportunities for us to review Skyline's MRP in detail. Skyline was not oblivious to the personnel changes that were occurring at the Division, and they surely cannot believe they were being led down a "primrose path" without being informed of any problems with their implementation of the amendment and evaluation of the site.

It appears from the statements made in the hearing that Skyline and the SCS did check the site but that the adequacy of those "evaluations" is the concern. Priscilla had been told that the SCS and Mr. Zobell had looked at the plots; however, no written record was available for us. Our understanding at the time was that the evaluations consisted of, as the letter from the SCS which Mr. Zobell presented at the hearing states, "visiting the site" and taking "pictures of the plant materials". The letter only refers to seedings, however, not to shrub transplants, and the SCS may only have looked at their plots which contain plant varieties in advanced stages of development for release by the SCS Plant Materials Centers. This is a small part of the area and is not where Skyline is having the most difficulty. The additional information anticipated from the SCS should verify whether or not this is what

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actually happened.

The letter makes it clear that no evaluations were performed in 1989 or 1990. Simply "visiting" the site in 1991 did not constitute an evaluation, especially the type of evaluation needed. We will have to wait to see if the SCS actually did more than visit the site, but the evaluations were clearly meant to provide information to determine future actions. Shrub transplant survival data is required for this determination. A list of species succeeding in the seedings is also needed so changes in seed mixes can be directed properly. The new (unapproved) MRP recognizes the need for quantitative revegetation data for all areas **other than the conveyor bench** with the commitment that final reclamation will be monitored for total living cover and woody species density three years after seeding and planting, apparently to determine if remedial action is needed. The new MRP states that shrub survival will be quantified in these areas using permanent transects for the first three years after planting. Skyline is attempting to perform final reclamation on the conveyor bench, but I don't believe that any monitoring of this kind has ever been done for the conveyor bench without combining data with other areas not now considered Skyline's responsibility which makes interpretations impossible.

Even knowing that the site had been visited, whether or not that constitutes adequate evaluation, I encouraged Priscilla to write the violation because R645-301-321 requires that the MRP contain sufficient vegetation information to be able to predict the potential for reestablishing vegetation. The MRP does not contain adequate information for the conveyor bench. Skyline has made almost Herculean efforts in money and time trying to perform final revegetation in this area, mostly without the benefits of regrading and topsoiling, but we have no idea if the reference area standards are even being approached. R645-300-133.710 requires that the Division make a finding that reclamation as required by the State Program is feasible on a site. Without additional information, I would not be able to support such a finding for Skyline's conveyor bench.