

0007

cc: RW Daniels  
~~J. Smith~~  
B.W. Roberts

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## United States Department of the Interior

AUG 27 1984

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT219 CENTRAL AVENUE, NW  
ALBUQUERQUE, NEW MEXICO 87102DIVISION OF OIL  
GAS & MINING

AUG 22 1984

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ACT/007/007  
Folder 7  
JIM

AUG 27 1984

Dr. Dianne R. Nielson, Director  
Division of Oil, Gas and Mining  
4241 State Office Building  
Salt Lake City, UT 84114

Dear Dr. Nielson:

I received the Division's response to the Office of Surface Mining's (OSM) Ten Day Notice (TDN) 84-2-31-5 issued August 2, 1984. I find the Division of Oil, Gas and Mining's (DOGM) response and actions in regard to this TDN to be inappropriate.

Since construction of the stream crossing and the 001 mine water discharge pond had been started by the operator prior to obtaining written approval, a Notice of Violation (NOV) should have been issued. The operator should then have been required to apply for written approval.

DOGM did not carry out its responsibilities as outlined by UMC 843.12 which requires that an NOV be issued if a violation is found.

OSM also disagrees with your position that the construction of the stream crossing (not in accordance with plans previously submitted by the operator and approved by OSM), and the construction of a new sediment pond qualify as operational and maintenance work. Of particular concern is the fact that this area has been undermined in the past as mentioned in your August 3, 1984 letter to Steve Manger of the WTC. Possible adverse impacts to the hydrologic balance, the environment and to the public resulting from construction activities in this area require serious study and formal approval. The granting of verbal approval to construct, followed by written approval after the fact, is not a responsible approach. Both of these activities should have been handled as a permit revision according to UMC 788.12.

Dr. Dianne Nielson, Director

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Since the operator now has written approval from DOGM approving the activities in question, OSM plans no further enforcement action against him.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hagen", with a long horizontal line extending to the right.

Robert H. Hagen, Director  
Albuquerque Field Office