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DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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December 27, 1988

TO: Alan Bachman, Assistant Attorney General

FROM: Bill Warmack, Reclamation Specialist *ju for BW*

RE: Synopsis of the Chronological Sequence Associated with NOV N88-30-2-1, Kaiser Coal Corporation, Sunnyside Mine, ACT/007/007, Folder #2, Emery County, Utah.

On December 12, 1988, an assessment conference for State Violation N 88-30-2-1 was held at the Salt Lake office with Kaiser and Environmental Power representatives. After reviewing the violation, you requested that all sides present their facts in a memo. Following is a brief of the succession of events preceding the issuance of the State Violation.

1. On an April 27-29, 1988 oversight inspection, OSM inspector Rade Orell issued TDN (ten day notice) #88-02-107-4(2) for failure to pass disturbed area drainage through a sediment pond and/or demonstrate that the areas qualify for Small Area Exemption. Specifically, the area in question is located east of the East Slurry cell.
2. As a result, in a letter dated May 19, 1988 from Lowell Braxton (DOGM) to Carl Winters (KCC), Kaiser was directed to submit plans for approval by June 30, 1988, and commit to implement the approved plans no later than September 30, 1988.
3. Letter dated August 15, 1988, directed to Mr. Bill Balaz (KCC) from John Whitehead (DOGM) indicated deficiencies existed within the plan and that Kaiser was to resolve them by September 1, 1988.
4. Letter of August 23, 1988 superceded the Division's August 15, 1988 correspondence and directed Kaiser to proceed with construction of the pond immediately. Kaiser was given a deadline for pond construction and response date for 3 conditions (minor design detail changes) of September 30, 1988.
5. Letter from Bill Balaz to John Whitehead dated September 23, 1988 requesting an extension of the September 30 deadline to November 30, 1988.

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6. After an on-site inspection on October 6, 1988, State Violation N 88-30-2-1 was issued for failure to operate in accordance with the approved plan and failure to pass disturbed area drainage through a sediment pond and/or failure to demonstrate disturbed area qualifies for a Small Area Exemption. Kaiser was to respond to the conditions in Division letter of August 23, 1988 and construct pond by November 15, 1988.
7. Subsequent letters (November 4, 17, 1988) indicated Kaiser was fulfilling their obligations as required by the Division. Approval of the revised drawings and plans was granted on November 21, 1988.
8. On November 17, 1988, the abatement of the said State Violation was extended to December 16, 1988.

At this time, Kaiser is diligently working to complete construction of the sedimentation pond before weather conditions prohibit further actions.

In summary, Kaiser was notified of a non-compliance situation as early as May 19, 1988. After plans were complete enough to construct the sediment pond, a Division directive (August 23, 1988) was given to Kaiser to construct the pond by September 30, 1988. By October 6, 1988, Kaiser had failed to initiate construction. Further delay or extension of deadlines to construct was ill advised, based on weather conditions expected normally between November and April. A Notice Of Violation (NOV) was appropriate to assure compliance was achieved.

PFO/djh
cc: S. Ellinwood
E. Barton
B. Balaz
0684Q/P.F.O.