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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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June 8, 1992

CERTIFIED RETURN RECEIPT REQUESTED

No. P 540 713 898

W. Hord Tipton, Deputy Director
Office of Surface Mining
Department of the Interior
1951 Constitution Avenue N.W.
Washington, D.C. 20240

Dear Mr. Tipton:

Re: Ten-Day Notice X92-02-370-002 TV1, Sunnyside Mine, Sunnyside Coal Company, ACT/007/007, Carbon County, Utah

Under the provisions of 30 CFR 842.11(b)(a)(iii)A, I am asking for an informal appeal of OSM's June 3 1992, finding that the above-cited TDN was correctly issued. In the June 3 letter, OSM finds Utah's TDN response appropriate. That is not the issue I am asking you to address at this time.

The June 3 letter substantiates DOGM's position that Utah had identified the problem that was the subject of the TDN well in advance of the federal inspection, had ordered the design changes to be made, and has established an administrative record including an extension of time to submit plans that is within Utah's programmatic domain.

In this case, a TDN was clearly a redundant action on the part of the AFO. I might point out that precisely the same issue had been raised a month earlier on this mine at a partial federal inspection. It is certainly correct for the federal inspector to note the design issue that is being resolved in his inspection report. Issuance of a TDN carries the stigma of alleged violation and potential federal action that is clearly not required in the light of Utah's action in advance of either oversight inspection.

Under the informal review provisions, please consider my request for vacation of the above-cited TDN and the preceding TDN X92-02-370-001 TV2, 2 of 2. In both cases, Utah had

Page 2
W. Hord Tipton
June 8, 1992

required that the issue be addressed in advance of the federal action. As I indicated in my previous correspondence to you on this subject, redundant state/federal actions are difficult to support under present budget conditions, and detract from the federalism direction integral to SMCRA.

Best regards,

Lance P. Braxton for
Dianne R. Nielson
Director

vb
cc: L. Braxton
J. Helfrich
tdnsun3