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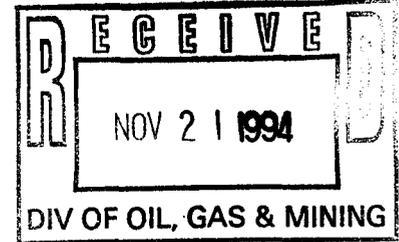
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United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Suite 1200
505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

November 18, 1994



Mr. Lowell P. Braxton, Associate Director
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

Re: Request for Extension for Response to Ten-Day Notice (TDN) 94-020-179-004 TV2, Hiawatha Mine

Dear Mr. Braxton:

The Albuquerque Field Office (AFO) received the Division of Oil, Gas and Mining's (DOGM) request for an extension of time to the above-noted TDN via fax on November 11, 1994; a verbal extension was granted via telephone on November 14, 1994. In documenting the events leading to that extension, AFO believes the following comments are pertinent:

1. TDN 94-020-179-004 TV2 had already been responded to by DOGM on October 24, 1994. Therefore, no extension was necessary regarding that particular TDN. However, as further discussed below, it appeared as if DOGM was requesting an extension for a subsequent TDN No. 94-020-179-005.
2. Based on the information found in the October 24, 1994, correspondence, AFO found DOGM's response to be appropriate for both violations. However, based on DOGM's analysis of violation #2, a second TDN No. 94-020-179-005 was issued on October 28, 1994, and received by DOGM on November 4, 1994; thus, setting November 14, 1994, as the date by which a response from DOGM was due.
3. The original violation #2 of TDN 94-020-179-004 dealt with the alleged failure of the permittee to design and certify drainage control structures around topsoil stockpile areas located outside of any other approved drainage controls. DOGM responded that, after an in-depth analysis of the Mining and

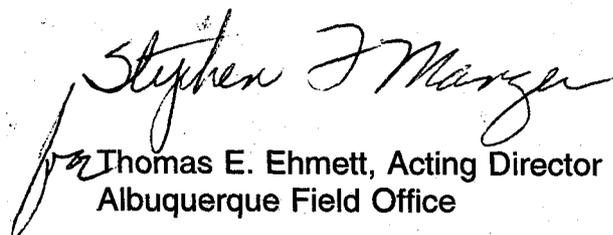
Reclamation Plan, they had concluded that "Since the structures in question are not functioning as sediment control devices, nor were they intended as sediment control in the mining and reclamation plan, the certification and design requirements stated in the TDN are not applicable. On this basis this TDN should be withdrawn."

4. While AFO found DOGM's response to be acceptable, it presented a new issue which was subsequently addressed by the issuance of TDN 94-020-179-005. DOGM's official position, as outlined in the response to TDN 94-020-179-004 Violation 2, clearly indicated that the berms around the topsoil piles are not to be considered sediment control measures. In that there are no other sediment control measures addressing the stockpile areas on the ground or in the permit, the new TDN was issued.
5. DOGM's request for an extension was based on the need to conduct "... a technical assessment of the function of the topsoil protection devices prior to responding." As noted above, DOGM already conducted such an assessment in responding to violation #2 of TDN 94-020-179-004. Therefore, this type of an assessment should have been readily available to DOGM for the purpose of responding to this latest TDN.
6. As you are aware, the Federal regulations found at 30 CFR 700.15 include legal holidays in any computation of prescribed time. However, to assure that this issue would be resolved within a time that you yourself imposed, AFO has granted your request for an extension of time to November 22, 1994, to respond to TDN 94-020-179-005.

In the future, I ask that you and your staff immediately consider issues involved in TDN resolution, and the possible need for additional response time, and not place me in the position of approving or denying a last minute extension request.

If you have any questions regarding the substantive aspects of this matter, please feel free to contact Stephen G. Rathbun at 505-766-1486.

Sincerely,


for Thomas E. Ehmet, Acting Director
Albuquerque Field Office