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United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
SUITE 310
625 SILVER AVENUE, S.W.
ALBUQUERQUE, NEW MEXICO 87102

orig mine file!
TAKE PRIDE IN AMERICA
cc 2 Brafton
In Reply, Please Refer to
D. Nielson

August 31, 1990

RECEIVED
SEP 04 1990

DIVISION OF
OIL, GAS & MINING

CERTIFIED MAIL RETURN RECEIPT REQUESTED
P 965 799 138

Dr. Dianne R. Nielson, Director
Division of Oil, Gas and Mining
Department of Natural Resources
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

Acc 1007/012
#5

Re: Wellington Preparation Plant, TDN 90-02-107-12

Dear Dr. Nielson:

The Albuquerque Field Office (AFO) has received the Division of Oil, Gas and Mining (DOGM) response to the above-referenced Ten-Day Notice (TDN).

The TDN was issued for the operator's failure to divert runoff from the surface of the refuse pile in stabilized diversion channels designed to safely pass the runoff resulting from a 100-year, 6-hour precipitation event. The TDN references the outslope of the coarse refuse disposal site.

DOGM's response indicates that the Division was under the impression that the issue had been resolved after addressing the previous TDN 88-02-107-3.

As stated in DOGM's response, AFO's January 27, 1989, letter to the Division indicates that the agreed upon course of action is to re-examine the requirements for diversions at the time there is a change in the operational status of the mine. Agreeing to re-examine the requirements did not resolve the issue relative to the previous TDN; it merely deferred it.

DOGM's current response indicates the Division "re-examined," in depth, diversion requirements at the site when Nevada Electric Investment Company determined to make the Wellington Preparation Plant operational.

The random sample inspection (RSI) conducted by AFO on August 1, 1990, included an extensive review of the Wellington Preparation Plant mine plan and correspondence files maintained by DOGM. The review indicated that DOGM issued the renewed permit with deficiencies. The review also

indicated that the files did not contain specific information substantiating that the issue of diversions for runoff from the surface of the pile, in this case the outslope, was reviewed by the Division. Moreover, the August 21, 1990, memorandum attached to DOGM's response describes the results of an in-depth review, generated after the TDN was issued.

DOGM's response contends that OSM technical specialists agreed that the undisturbed runoff diversion UD-1A needed to be constructed. The response also alleges that implicit in this course of action was the concept that the outslope of the refuse pile would not require construction of additional diversions.

Shortly after the initial TDN was issued in 1988, OSM staff members from Denver and AFO met with DOGM staff at the Wellington site. OSM staff members generated a November 22, 1988, technical memorandum as a result of the meeting. The memorandum describes the requirement for a 100-year, 24-hour diversion at the coarse refuse pile. The memorandum indicates that the refuse pile is regulated by UMC 817.72(d) and lists the Federal counterpart at 30 CFR 817.83(a)(2). The Federal counterpart specifies that runoff from areas above the refuse pile as well as from the surface of the fill must be diverted into stabilized channels designed to handle the runoff resulting from a 100-year, 6-hour precipitation event. Therefore, it was never implicit that the outslope diversions would not require construction.

DOGM argues that the rule cited in the TDN does not necessarily require the construction of additional diversions. DOGM contends that only where there is runoff from the surface of a pile that diversions need be constructed.

The cited rule, R614-301-746-212 states "* * * runoff from the surface of the refuse pile will be diverted into stabilized diversion channels * * * to safely pass the runoff from a 100-year, 6-hour precipitation event."

DOGM's response includes a technical memorandum, generated after the issuance of the TDN, which indicates that runoff from the outslope of the refuse pile as a result of a 100-year, 6-hour precipitation event would be insignificant to nonexistent (0.009 CFS using SCS methodology). The analysis alluded to in the technical memorandum is not included in the current permit findings documents and, therefore, was not available for review at the time of the RSI. In order to more fully evaluate the potential for runoff from the outslope of the refuse pile, AFO requests that DOGM provide the results of the computer analysis with all the input parameters.

The TDN was appropriately issued on the basis of the information at hand at the time of the inspection and review of DOGM's mine plan and correspondence files. AFO will not withdraw the TDN at this time and will reserve making a finding pursuant to 30 CFR 842.11 pending receipt

Dr. Dianne R. Nielson

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of the requested information. AFO requests that the information be submitted within 10 days of DOGM's receipt of this letter.

If you wish to discuss the matter further, please contact John C. Kathmann or me at (505) 766-1486.

Sincerely,

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

Robert H. Hagen, Director
Albuquerque Field Office

Acting

Coig Kathman Alu 6/2001
cc LPS
mine file



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SUITE 310

625 SILVER AVENUE, S.W.
ALBUQUERQUE, NEW MEXICO 87102

In Reply Refer To:

RECEIVED
AUG 09 1990

August 7, 1990

CERTIFIED MAIL RECEIPT NO.: P 965 798 988

DIVISION OF
OIL, GAS & MINING

Permit: 007/012
Mine Name: Wellington Prep

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

Dear Mr. Braxton:

Federal Ten-Day Notice 90-02-107-12 is being issued for a violation that likely existed at the time of the last State complete inspection (LSCI). Specific details are as follows:

Date of Federal Inspection: 08/01/90 ; Date of LSCI: 06/29/90

The determination that the State did not cite the violation is based on one or more of the following reasons:

- The condition was identified in a State inspection report but no State enforcement action was taken.
- Design criteria or required certification has not been met for a structure in existence as of the last complete inspection (sediment pond, excess spoil fill, etc.)
- Necessary controls that were required at the time of the last complete State inspection have not been established (diversion ditches, sediment ponds, top soil protection, signs and markers, etc.)
- Site conditions indicate that the violation noted had been in existence at the time of, or prior to, the last complete State inspection.
- Other (Give explanation).

Indicate below the Division's reason(s) for not citing the alleged violation:

- Not a violation *issue was resolved in previous T60 X88-3-107#2 **
- Precluded by State policy
- Not included under State program
- Warning given in Lieu of a Citation
- Violation not recognized (missed)
- Practice allowed under approved permit
- Too minor to cite
- Working with operator to correct
- Other: _____

Signature _____

Date _____

Please return your signed and dated response to the Albuquerque Field Office at your earliest convenience.

Sincerely,

John C. Kathmann

John C. Kathmann, Chief
Inspection and Enforcement Branch

Enclosure

** 1990 ^{DUCM} analysis indicates unlikely potential for runoff, and no evidence for runoff was cited by OSM. See attached.*