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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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orig ACT 007/013
F&E folder

September 15, 1989

CERTIFIED RETURN RECEIPT REQUESTED
No. P 075 063 257

Mr. Robert H. Hagen, Director
Albuquerque Field Office
Office of Surface Mining
Reclamation and Enforcement
Suite 310, Silver Square
625 Silver Avenue, S.W.
Albuquerque, New Mexico 87102


Dear Mr. Hagen:

Re: TDN X89-02-107-6TV2, Horse Canyon Mine, PRO 007/013, Carbon County, Utah

The above-referenced TDN was received by DOGM September 5, 1989, and lists Kaiser Coal Corporation, Raton, New Mexico as permittee.

Number 1 of 2 reads: "Failure to obtain a valid permit; ...no person shall engage in or carry out underground coal mining activities unless that person has first obtained a valid permit issued by the Division under an approved program: Horse Canyon Mine."

Number 2 of 2 reads: "Failure to conduct underground coal mining activities in accordance with the requirements of the performance standards, (the requirements to comply with the Permanent Program Performance Standards) as stated in the Division's letter to Kaiser Coal Corporation, dated April 28, 1986."

Please consider this letter a formal request by the Division for OSM to withdraw this TDN. As stated in the Division's response to the first TDN (which was subsequently withdrawn by OSM) resulting from the oversight inspection of July 26, 1989, both TDNs are actually requests for information on the part of your office, when in simple terms your office and the OSM Western Field Office have the information on hand sufficient to demonstrate that the bankruptcy actions of Kaiser Coal have precluded permitting of this facility. I have enclosed the same permit action documents provided OSM in response to the withdrawn TDN, substantiating the Division's intent to permit and bond this facility pending completion of sale of the property to a responsible party. Clearly, in its present capacity, Kaiser Coal is unable to continue the permitting action. I would submit that by continuing an enforcement action against Kaiser, OSM may actually hinder the sale of this property to an entity capable of permitting and bonding the Horse Canyon site.

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Although the cover letter accompanying this TDN references discussions with the Western Field Office, I feel it is significant to note that the latest monthly issues list from Ray Lowrie's office does not list and has not listed the Horse Canyon permitting as a priority permitting action, the withdrawn TDN notwithstanding. Furthermore, the discussions between DOGM and OSM over the past two and one-half years have acknowledged and supported the Division's efforts, through bankruptcy court and work with the parties, to secure replacement bonds or other funds to guarantee reclamation and if possible to transfer the responsibilities for operations, permitting and reclamation to responsible parties.

In my letter requesting withdrawal of the first TDN, I made reference to ongoing inspections being conducted by the Division at Horse Canyon. You are aware that the Division issued a violation at the time of the oversight inspection. Consequently, I am not sure of the value of the reference to a performance standards letter written by the Division in 1986, as noted in this TDN.

In conclusion, I formally request withdrawal of TDN 89-02-107-6-TV2, but reiterate the Division's position that a new owner of Horse Canyon will be required to renew the permitting effort. In the meantime, the Division will continue to inspect this site and issue appropriate enforcement actions as required.

Best regards,



Dianne R. Nielson
Director

vb
Enclosure
cc: R. Lowrie, OSM, Denver
A. Klein, OSM, Denver
J. Palfy, Kaiser Coal Corp.
L. Braxton
R. Smith
J. Helfrich
Price Field Office
MI78/26&27