

0015



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

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Salt Lake City, Utah 84180-1203
801-538-5340
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801-538-5319 (TDD)

September 15, 1994

Certified Return Receipt
P 074 977 108

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Re: Response to Ten-Day Notice X94-020-352-003 TV2, Mountain Coal Company, Gordon Creek #2, #7, and #8 Mines, ACT/007/016 Folder #5, Carbon County, Utah

Dear Mr. Ehmett:

This letter responds to the above-referenced Ten-Day Notice ("TDN"), the certified copy of which was received at the Division Office on September 6, 1994.

Part 1 of 2 of the TDN reads: "Failure to provide in the mine plan, for the elimination of all highwalls. Highwalls at the #2 Mine." Regulation cited: R645-301-542.200.

The Division recognized the inadequacies of the reclamation plan at the Mountain Coal Company ("MCC") Gordon Creek #2, #7, & #8 mines in June of 1991. The Division subsequently issued a Division Order and a Notice of Violation requiring amendment of the reclamation plan to provide for complete highwall elimination, and has entered into a Settlement Agreement with the operator for the same purpose, all as set forth in the enclosed abbreviated chronology of these actions. Mountain Coal submitted the required plan amendments, which are now under review by the Division.

On two occasions, the Division invited OSM's participation in review of the reclamation plan with respect to highwall elimination. OSM declined to participate in the review or offer guidance, but stated, on December 14, 1993, that it



Page 2

Thomas E. Ehmett

TDN X94-020-352-003 TV2

September 15, 1994

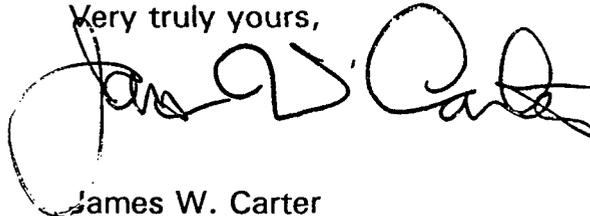
preferred to review plans when approved by the Division. Since the Division has not yet approved Mountain Coal's revised reclamation plan, and has already required MCC to revise its reclamation plan to provide for highwall elimination, OSM's allegation that the plan does not contemplate elimination of highwalls is both premature and groundless. Part 1 of the TDN should be eliminated, as it lacks a present factual basis.

Part 2 of 2 reads: "Failure to reclaim the mine according to the schedule approved in the permit. Number 2, 7, and 8 Mine areas." Regulation cited: R645-300.142.

The Division has prohibited MCC from following its originally approved reclamation schedule because the approved plan did not comport with Utah's changing regulatory requirement for elimination of highwalls. By taking enforcement and administrative action, the Division has effectively cancelled the reclamation schedule of the approved plan. When the revised reclamation plan is determined to be technically sound, a new reclamation schedule for the modified reclamation activities will be approved.

Given the record of bona fide technical problems at these mines and the plan modifications now pending, particularly in the light of both Utah's and MCC's requests for OSM technical input to plan modification, sustaining this TDN serves neither of us well. I request that AFO find this response appropriate as to both parts of TDN X94-020-352-003.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Carter". The signature is written in a cursive style with a large initial "J" and "C".

James W. Carter
Director

jbe

Enclosure: H:GC27CHRO.DO-

cc/enc: A. Klein, OSM

L. Braxton

P. Grubaugh-Littig

J. Helfrich

H:007016TD

P 074 977 108

THOMAS E EHMETT ACTING DIRECTOR
OFFICE OF SURFACE MINING
RECLAMATION & ENFORCEMENT
105 MARQUETTE NW STE 1200
ALBUQUERQUE NM 87102

DOGM

JBE

TDN

ACT/007/016

#5

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100
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3. Article Addressed to:
THOMAS E EHMETT ACTING DIRECTOR
OFFICE OF SURFACE MINING
RECLAMATION & ENFORCEMENT
505 MARQUETTE NW STE 1200
ALBUQUERQUE NM 87102

4. Article Number
P 074 977 108

Type of Service:
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9/19/94

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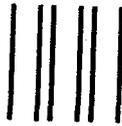
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UNITED STATES POSTAL SERVICE
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GORDON CREEK #2, #7 & #8 MINES
ABBREVIATED CHRONOLOGY
RECLAMATION PLAN

- December 3, 1990 Division ("DOGM") notified of closure of Gordon Creek #2, #7 & #8 Mines.
- June 6, 1991 Division Order DO-91A ("DO") issued re: Highwall Reclamation.
- July 8, 1991 Mountain Coal Company ("MCC") requested 120-day extension citing landowner request, highwall stability issues, reclamation costs and scheduling as bases.
- July 11, 1991 Meeting with Dan Guy, Lowell Braxton and Pamela Grubaugh-Littig ("PGL"). Extension granted until 11/11/91 for submittal of DO information.
- August 6, 1991 Dianne Nielson, Lowell Braxton, Jess Kelley, and Dan Guy meet at the site to look at the highwalls and discuss possible ways of reclaiming them. At this meeting, it was decided that the Division and the operator would seek the assistance of the Western Technical Center ("WTC") in the process of "formulation and approval" of a highwall reclamation plan which would be both technically sound and programmatically acceptable to the Division and to the Office of Surface Mining ("OSM").
- September 3, 1991 Division requests WTC assistance in formulating highwall elimination plan.
- December 12, 1991 MCC submits proposal to revise Postmining Land Use information.
- January 24, 1992 Proposal denied.
- January 27, 1992 Letter sent to Lowell Braxton stating the provisions for administrative and judicial review at R645-300-200 will apply to the DO.
- February 25, 1992 Meeting with MCC and Division re: the complete elimination of highwalls.
- March 4, 1992 Clarification letter sent reiterating that complete elimination of highwalls is required.

April 29, 1992 Request received for extension to 5/7/92. Extension granted for submittal of "complete and accurate information relative to the reclamation of this mine."

May 7, 1992 MCC submits DO-91A response.

June 3, 1992 Hydrology review submitted to PGL. Permanent impoundment is proposed with critical information missing.

June 8, 1992 At I & E meeting, PGL advises Lowell Braxton of status of DO-91A. He recommends issuance of a violation.

June 15, 1992 NOV #N92-20-1-1 issued.

June 18, 1992 NOV modified to extend abatement until June 29, 1992.

July 14, 1992 Fact of Violation Hearing.

July 28, 1992 Division Order DO-92A issued regarding reclamation at Gordon Creek #2, #7 & #8.

August 13, 1992 NOV #N92-20-1-1 vacated.

August 17, 1992 "Settlement Agreement" letter from Dianne Nielson to Scot Anderson, requires submittal of required information by 12/18/92.

August 20, 1992 MCC submits highwall information.

February 1, 1993 Reclamation plan submitted.

March 17, 1993 Division completeness and technical review sent to MCC.

April 21, 1993 PGL speaks with Kathleen Welt, who says that there was a meeting with Scot Anderson, Ray Lowrie (OSM, Denver) and herself on 4/20/93. Denver could provide no assistance on highwall issue, Albuquerque Field Office ("AFO") must authorize, per Ray Lowrie.

May 4, 1993 Letter to Bob Hagen from Scot Anderson (Legal, MCC) requesting a meeting to discuss the complete reclamation of the Gordon Creek Mine in 1993.

- June 24, 1993 OSM oversight meeting at the Division. Operator request for technical assistance is discussed. OSM states that technical assistance must be requested through the Division.
- July 12, 1993 Letter from Kathleen Welt to Division requesting extension to August 6, 1993 for resubmittal.
- August 6, 1993 Resubmittal of entire plan to Division from MCC.
- December 14, 1993 Scot Anderson calls PGL to notify Division that ARCO (Mountain Coal Company) met with OSM-AFO on 12/7 (Steve Rathbun and Henry Austin) regarding the highwall issue at the #7 Mine. Mr. Anderson suggested a technical meeting with OSM-DOGM-ARCO, but Mr. Rathbun told him that would not happen. Mr. Rathbun stated that the #7 highwall must be completely eliminated, but OSM would review material submitted to them from the Division. Scot said that they will take a fresh look at the issue and decide upon the best option.
- January 18, 1994 Scot Anderson calls PGL to notify Division that ARCO will respond to Division in mid-February regarding their position on highwalls.
- March 14, 1994 Meeting with Scot Anderson, Phil Schmidt, Dan Guy, Jim Carter, Lowell Braxton, Daron Haddock, Jesse Kelley, Ken Wyatt, Henry Sauer, Tom Munson, and PGL regarding status of DOGM/OSM highwall situation. Jim tells Mountain Coal that Division will review the 8/6/93 plan according to a yet-to-be approved Approximate Original Contour ("AOC") directive. This review will entail an informal meeting with Mountain Coal and Division on 4/18.
- August 11, 1994 Meeting with Mountain Coal (Scot Anderson, Dan Guy, Paige Beville) and Division (Daron, Randy, Jesse, Susan, Henry, PGL) to discuss the June 30 deficiency letter, in particular, AOC at #7 Mine. Will request extension for submittal by 9/30.

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*          ** TRANSMIT CONFIRMATION REPORT **
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*      Journal No. : 025
*      Receiver    : 505 7662609
*      Transmitter : DIV OIL GAS & MINING
*      Date        : Sep 15,94 16:48
*      Document    : 06 pages
*      Time        : 03'02"
*      Mode        : G3 NORMAL
*      Result      : OK
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FAX COVER SHEET

Date: 9-15-94

FAX #: (505) 766-2609

From: Jim Carter

Please deliver the following page(s) to:

Tom Ehmett

Total number of pages, including this page 6

Comments: IDN X94-020-352-003 TV2 Response.

Original hard-copy to follow by mail.

If you do not receive all pages or have any problems with receiving, please call (801) 538-5340 and ask for Janean.

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