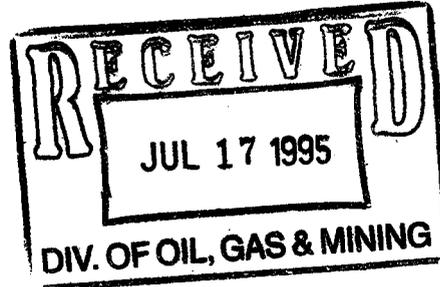




United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

JUL 14 1995



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Mr. James W. Carter, Director
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

ACT/007/016 #5
#3

Dear Mr. Carter:

This is in response to your agency's letter of November 28, 1994, requesting informal review of the Albuquerque Field Office's (AFO) determination that the responses of the Division of Oil, Gas and Mining (DOGM) to two violations alleged in ten-day notice (TDN) number X94-020-352-003 TV2 (Mountain Coal Company (MCC), Gordon Creek #2, #7, and #8 Mines, permit number ACT/007/016) were inappropriate.

The violations alleged in the TDN include (1) the failure to provide, in the mine plan, for the elimination of all highwalls at the number 2 mine, and (2) the failure to reclaim the mine according to the schedule approved in the permit for the number 2, 7, and 8 mine areas.

By letter dated March 20, 1995, the Deputy Director of the Office of Surface Mining Reclamation and Enforcement (OSM) remanded the case that is the subject of this letter back to the AFO and the Western Regional Coordinating Center (WRCC) to work in conjunction with DOGM in addressing various highwall issues that may be unique to Utah and the Western States. In addition, you were to provide WRCC with additional information for the purpose of assisting AFO and WRCC in conducting a joint technical/programmatic study and developing an appropriate course of action to resolve any outstanding issues.

DOGM has subsequently provided to OSM additional technical information ensuring highwall elimination, and it is requiring further reclamation operations by the operator for the purpose of eliminating such highwalls by backfilling and grading. Moreover, OSM published a final rule Federal Register notice (60 FR 28040) on May 30, 1995, addressing programmatic issues concerning highwall elimination and approximate original contour (AOC). Accordingly, I agree that the remedial activities discussed above

Mr. James W. Carter, Director

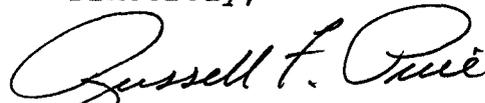
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constitute an appropriate response to the allegations set forth in the subject TDN.

While I might have agreed with the AFO Director's November 21, 1994, determination on the basis of the information that was available to him at that time, in light of the subsequent events discussed above, I find that in accordance with 30 CFR 842.11(b)(1)(ii)(B)(2)-(4), DOGM did appropriately respond to the TDN and has shown good cause in addressing reclamation concerns through further remedial activities.

Therefore, I am reversing the decision of the AFO Director with respect to the appropriateness of DOGM's response to the TDN, and a Federal inspection will not be ordered.

Sincerely,



Russell F. Price, P.E.
Acting Regional Director
Western Regional Coordinating
Center

cc: Mountain Coal
Company
P.O. Box 591
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Acting Director, AFO
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Regional Director, MCRCC
Regional Director, ARCC
Chief, Branch of Inspection
and Enforcement
Deputy Director