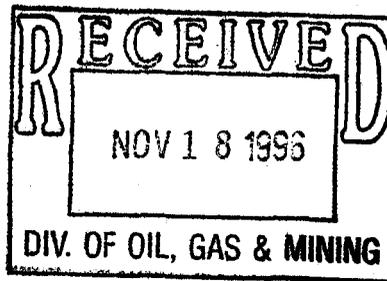


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November 12, 1996

Mr. Lowell Braxton
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 85114-5801

Re: Notice of Violation No. N96-47-1-1
Failure to prevent to the extent possible contributions of sediment outside the permit area.

Dear Mr. Braxton:

Dan Guy contacted me last week regarding the above Notice of Violation (N.O.V.) and suggested that we write a letter putting forth our view of the facts relating to the issuance of the N.O.V. and requesting that it be vacated. I apologize for the time it has taken to get this letter to you but because I am presently in Australia and Dan Guy has been on vacation since he received the N.O.V. communications between us have been difficult.

As I understand from Dan, this N.O.V. was written following an inspection Dave Darby conducted on Friday, November 1, 1996. This inspection was apparently conducted without notifying Dan and without informing anyone at the site since no one working at the site saw Dave. In the past, the DOGM inspectors have given Dan sufficient notice prior to an inspection so that he, as the Mountain Coal Company representative, could accompany them. This has always worked well since it gives both DOGM and Mountain Coal Company the opportunity to discuss issues, share opinions and, if appropriate, reach mutual agreement as to how best to ensure compliance with the Utah Coal Mining and Reclamation Act and our approved reclamation plan.

It is particularly unfortunate that Dan was not given the opportunity to accompany Dave on this inspection because it is Dan's belief that had he done so, he would have had the opportunity to understand Dave's concerns, would have made sure that Dave fully understood our sediment control plan and would have been able to give Dave assurances that the system prevented sediment from leaving the permit area uncontrolled. Had this occurred it is possible that Dave's concerns may have been satisfied and that he may not have issued a Notice of Violation.

As it stands now, we are somewhat confused about the basis for the N.O.V. and because we believe our existing sediment control features are in fact controlling runoff on the access road we question the benefit of Dave's requirement that we re-install a water bar. Thus we are requesting an opportunity to discuss this with you and/or your staff at your convenience. I will be back in the U.S. the week of November 25 or alternatively, would be happy to discuss this with you via a conference call.

Mr. Lowell Braxton
Page Two
November 12, 1996

It might be helpful to explain how our sediment control regime in the area cited in the N.O.V. works to ensure that runoff does not leave the site untreated. Because this area is part of the area being reclaimed, we employ a variety of sediment control features, both permanent and temporary to ensure runoff is controlled at all times. Obviously, because this is an active construction site, the location and method of sediment controls change as work progresses.

When the three-celled sedimentation pond was initially constructed in 1995 to capture and control runoff from the soon-to-be-reclaimed Gordon Creek No. 2, 7, and 8 Mines, our approved reclamation plan called for the use of silt fences for temporary sediment control in those locations which, while under construction, did not drain into the sedimentation pond. This was the case with the portion of the county road cited in the N.O.V. In addition to silt fences we employed a pre-existing concrete catch basin just below the gate to the county road to catch runoff from the county road until the lower two cells of the pond were expanded. Since this basin discharged into the No. 2 cell of the pond, Mr. Darby requested that we construct a water bar to channel runoff from the north side of our road above the gate across to the pond until the pond cells were expanded to their final configuration. Although this was a temporary measure and not part of the plan, we agreed to his request and constructed a water bar. As reclamation progressed, the water bar was periodically removed to allow for haulage of rip-rap and during road blading activities. However, during these times all the other sediment control elements remained in place, including the catch basin, rock gabions and silt fences in the drainage ditches on either side of the county road.

In early October of this year, the lower two cells of the ponds were expanded to their final configuration. This was part of the original plan to provide fill material for the downslope disturbance on the Old Fan Portal Area. As planned, the concrete catch basin was removed at this time along with the water bar since there was no longer an inlet to the pond in the second cell. Further, the embankments on the lower two cells of the pond were heightened to three to four feet along the county road. These embankments did not include a secondary inlet structure since all runoff from the reclaimed site will be directed through the main drainage channel. However, as we have done throughout the reclamation project, we will maintain silt fences in drainage ditches to capture sediment before it leaves the permitted area. This is necessary for the approximately 300 foot stretch of road from our permit area to the gate which currently falls outside the drainage to the sedimentation pond.

As Dave may have noted during his November 1 inspection, snow clearing activities following the snowfalls on October 25th and 26th had, in fact, damaged some of these sediment control features. These included a small portion of a drainage ditch along the road and some of the silt fence structures. The silt fences were replaced within four or five days of the snowfall. However, because of muddy road conditions, our contractor could not clear the ditches as quickly. This has now been done and I have assurances from Dan that any runoff which would have been generated during this time would have been captured and directed through a silt fence in the drainage ditch a short distance down the road.

Mr. Lowell Braxton
Page Three
November 12, 1996

I hope this explanation helps to clarify the conditions at the mine and to assure you that we are working hard to ensure that we maintain sediment control while continuing our reclamation activities. I recognize, as I am sure you do, that we are working under difficult conditions exacerbated by the deteriorating weather but we are trying to complete as much of the reclamation work as possible this year.

For the foregoing reasons, I believe and urge that the N.O.V. should be vacated. Please contact Dan Guy or my secretary, Linda Jamieson at (303) 293-7693 to let me know when we can discuss this further.

Sincerely,

Paige Beville / lj

Paige B. Beville
Manager, Environmental, Health and Safety

cc: Joe Helfrich - DOGM ✓
Dave Darby - DOGM ✓
Kirk Mueller - ARCO ✓
Phil Schmidt, WEM ✓
Dan Guy - Blackhawk Engineering ✓