



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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

January 12, 1998

Paige B. Beville
Mountain Coal Company
555 Seventeenth Street
Denver, Colorado 80202

Re: Proposed Assessment, Notice of Violation N-97-47-2-3, Mountain Coal Company,
Gordon Creek #2, 7 & 8 Mines, ACT/007/016, File Folder #2, Carbon County, Utah

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Dear Ms. Beville:

As indicated in our conference call with yourself, Dave Darby and me, on January 8, 1998, the basis for the Division's decision to deny your request to vacate the referenced Notice of Violation is as follows:

The nature of the violation "failure to design, construct and maintain," is a general characterization of the noncompliance issue identified by the inspector. The regulations cited would remain the same with or without the language "design and construct."

Therefore, the question of applicability is moot.

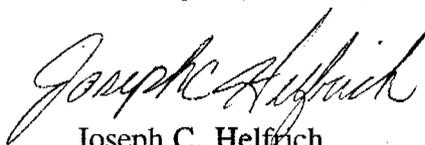
Additionally, the information provided to the Division received October 30, 1997, failed to clearly demonstrate that a precipitation event in excess of the design storm caused the failure of the structures.

As for the term "maintenance" referenced in the nature of the violation, the permittee is ultimately responsible for maintenance of these structures regardless of whether the structures were properly designed and constructed, or how many and what type of precipitation events occurred. The Division was unable to make a finding that the permittee, or their representative, (with the general knowledge of numerous rainstorms in the area during the previous three weeks), made an attempt to identify the site conditions and contact the Division prior to Mr. Darby's site inspection of September 25, 1997.

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Should you wish to request an assessment conference, please contact Vicki Bailey at (801) 538-5304.

Sincerely,



Joseph C. Helfrich
Permit Supervisor

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cc: Dave Darby, DOGM
Mary Ann Wright, DOGM
Lowell Braxton, DOGM
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