



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

Norman H. Bangerter, Governor  
Dee C. Hansen, Executive Director  
Dianne R. Nielson, Ph.D., Division Director

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June 18, 1987

CERTIFIED RETURN RECEIPT REQUESTED  
P 402 456 464

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

Dear Mr. Hagen:

Re: Beaver Creek Coal Company, Gordon Creek #3 and #6 Mine,  
INA/007/017, Folder #5, Carbon County, Utah

The following is in response to your June 3, 1987 letter, deeming the Division's response to Ten Day Notice (TDN) #87-2-116-3 inappropriate. Your letter stated that an inspection conducted on November 26, 1986, should have resulted in a Notice of Violation (NOV) issued to the operator for unstable embankment conditions.

My staff has reviewed our inspection files for this mine and does not have a record of an inspection conducted on November 26, 1986. We do have an inspection report for an inspection conducted on November 19 and 20, 1986, for this site. A review of this report substantiates that the operator was appraised of his obligation to submit "as-builts" depicting constructed pond embankment configurations. At the time of the inspection, I believe the operator was still within the response mandate of the permit stipulations. Although it may have been possible to field check the embankment slopes without "as-builts", it is clearly preferable to check for compliance against the "as-builts" rather than simply measuring the embankment. On this basis, and as stated in the inspection report, no performance standard problems were noted, therefore a violation was not in order, your letter of June 3, 1987 notwithstanding.

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I strongly urge you to reconsider your statement that the Division's response on this TDN was inappropriate, based on material presented in the previous paragraph. In reality, this issue is probably better characterized as a permit oversight issue rather than a compliance issue. I presume that is the position of the Albuquerque Field Office, since a federal NOV was not issued. I do not agree that the Division's response to the TDN was inappropriate as stated in your June 3, 1987 letter.

Best regards,

  
for Dianne R. Nielson  
Director

LPB/djh  
cc: K. May  
L. Braxton  
J. Helfrich  
J. Whitehead  
P.F.O.  
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