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United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
SUITE 310

625 SILVER AVENUE, S.W.
ALBUQUERQUE, NEW MEXICO 87102



In Reply Refer To:

December 17, 1991



DEC 23 1991

DIVISION OF
OIL GAS & MINING

Dr. Dianne R. Nielson, Director
Division of Oil, Gas and Mining
Department of Natural Resources
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

Re: Ten-Day Letter (TDL) 91-02-370-001 and Ten-Day Notice (TDN)
89-02-370-003, Trail Canyon

Dear Dr. Nielson:

The TDL was issued on February 20, 1991, for failure to make a written demonstration showing that highwalls were eliminated to the extent technically practical in accordance with Utah Rule 614-301-553-500.

On March 12, 1991, the Albuquerque Field Office (AFO) found the Division of Oil, Gas and Mining's (DOGM) response to the above-noted TDL to constitute appropriate action at that time. The written finding was based on DOGM's issuance of a "Division Order" requiring Co-Op Mining Company to make a permit change relating to the requirements of R614-301-553.500. AFO's letter of March 12, 1991, also indicated an on-going review of the "Division Order" in relation to a final decision on the TDL and the above-noted TDN that involved the retention of a concrete chute foundation.

The Office of Surface Mining Reclamation and Enforcement (OSM) reviewed the documentation developed to support the revision that was submitted to this office on May 30, 1991. A site visit involving the Western Support Center (WSC) was conducted on September 6, 1991. The WSC report is forwarded for your information.

The WSC report identifies reclamation issues that should be addressed by DOGM prior to final reclamation of the site. However, consistent with the agreements reached at the November 7, 1991, meeting between OSM and DOGM regarding acceptance of highwalls where Phase I release has occurred and the discussion relative to applicability of Rule 614-553-500, AFO is finalizing the March 12, 1991, appropriate response to the TDL and finds the State response to Part 2 of the TDN to be appropriate.

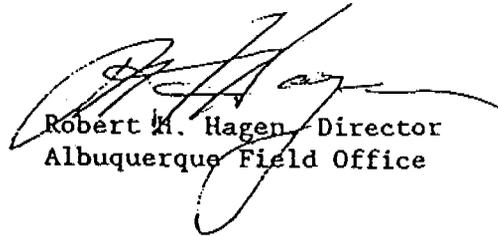
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Dr. Dianne Nielson

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If you have any questions regarding these matters, please contact Stephen Rathbun at (505) 766-1486.

Sincerely,



Robert M. Hagen, Director
Albuquerque Field Office

Enclosure

centrating, preparing, or loading of coal at a place other than the mine site; Adoption of SMC 843.20.

(j) The following amendments as submitted to OSMRE on March 3, 1986, are approved effective July 28, 1986.

(1) Modifications to Utah regulations, sections SMC 816.61 and UMC 817.61, revised February 5, 1986.

(2) Modifications to Utah regulations, sections SMC/UMC 850.5 et seq., revised February 5, 1986.

(3) Memorandum of Agreement between the Board and Division of Oil, Gas, and Mining and the Utah Industrial Commission.

(4) Utah Code Annotated Title 40, Chapter 2, Coal Mines, Utah Industrial Commission, sections 40-2-14 through 40-2-16.

(5) General Safety Orders, Utah Industrial Commission, Coal Mines, sections 51 through 53.

(k) The following amendment to the Utah State program which was submitted to OSMRE by Utah on September 3, 1986, is approved effective January 28, 1987.

Revision of the definition for "coal processing plant" and adoption of a definition for "coal processing" under SMC/UMC 700.5.

(l) The following amendment is approved effective March 28, 1988: Modification to the Utah State Program regulations submitted to OSMRE by Utah on January 8, 1988. The modification was as follows: redesignation of the existing SMC/UMC 845.15 (b)(2) as (b)(1)(ii) and adding a new paragraph (b)(2) to provide for a 30-day cap on civil penalty assessments.

(m) The following amendment is approved effective August 18, 1988: Revision of SMC/UMC 785.19(e)(2) regarding alluvial valley floors as submitted by Utah to OSMRE on September 24, 1987, and revised by Utah on April 6, 1988.

(n) With the exceptions of R614-100-200, the first definition of "fragile lands"; R614-100-200, the definition of "previously mined area" to the extent that the definition interprets or contemplates the temporal concept of "previously" as being any other date than August 3, 1977, or allows lands which have once been fully and satis-

factorily reclaimed to be reclaimed, then only partially reclaimed; R614-100-200, the definition of "road" to the extent that it includes the phrase "public roads when an evaluation of the extent of the mining-related use of the road to the public uses the road has been made by the Division or;" R614-100-200, the "takings" as it applies to the definition of "existing rights;" R614-100-415, Federal lands coal exploration operation requirements to the extent the rule includes the phrase "which removes more than 250 tons;" R614-301-731.212 and R614-301-731.223, ground and surface water monitoring requirements to the extent the rule includes the word "accessible;" R614-103-221 and R614-103-222, areas unsuitable for coal mining and reclamation operations; R614-301-352, contemporaneous reclamation; R614-301-411.145, land use; R614-301-525.160 and R614-301-525.232, subsidence control requirements to the extent the rules include the phrase "to the extent required by Utah law;" R614-301-528.320, coal waste disposal requirements to the extent that the rule would allow end dumping or side dumping of coal mine waste in coal mine waste disposal areas; R614-301-553.700 and R614-301-553.800, backfilling and grading of thin and thick overburden surface mines; and R614-302-271, variances from approximate original contour (AOC) requirements to the extent that the rule does not limit the allowance of variance from AOC to steep-slope mining operations. The following revisions to the Utah permanent regulatory program rules submitted to OSM on August 11, 1989, are approved effective April 12, 1990:

- R614-100 Administrative: Introduction.
- R614-101 Administrative: Restrictions on State Employees.
- R614-102 Administrative: Exemption for Coal Extraction Incident to Government-Financed Highway or other Construction.
- R614-103 Administrative: Areas Unsuitable for Coal Mining and Reclamation Operations.

- R614-104 Administrative: Protection of Employees.
- R614-105 Administrative: Blaster Training, Examination and Certification.
- R614-200 Coal Exploration: Introduction.
- R614-201 Coal Exploration: Requirements for Exploration Approval.
- R614-202 Coal Exploration: Compliance Duties.
- R614-203 Coal Exploration: Public Availability of Information.
- R614-300 Coal Mine Permitting: Administrative Procedures.
- R614-301 Coal Mine Permitting: Permit Application Requirements.
- R614-301-100 General Contents.
- R614-301-200 Soils.
- R614-301-300 Biology.
- R614-301-400 Land use and Air Quality.
- R614-301-500 Engineering.
- R614-301-600 Geology.
- R614-301-700 Hydrology.
- R614-301-800 Bonding and Insurance.
- R614-302 Coal Mine Permitting: Special Categories and Areas of Mining.
- R614-302-100 General.
- R614-302-200 Special Categories of Mining.
- R614-302-300 Special Areas of Mining.
- R614-303 Coal Mine Permitting: Change, Renewal, and Transfer, Assignment, or Sale of Permit Rights.
- R614-303-100 General Information on the Change, Renewal Assignment of Sale of Permit Rights.
- R614-303-200 Permit Review, Change and Renewal.
- R614-303-300 Transfer, assignment, or Sale of Permit Rights.
- R614-400 Inspection and Enforcement: Division Authority and Procedures.
- R614-400-100 General Information on Authority and Procedures.
- R614-400-200 Information Related to Inspections.
- R614-400-300 Provisions of State Enforcement.
- R614-401 Inspection and Enforcement: Civil Penalties.
- R614-401-100 Information on Civil Penalties.
- R614-401-200 When Penalty will Be Assessed.
- R614-401-300 Point System for Penalties.
- R614-401-400 Assessment of Separate Violations for Each Day.

- R614-401-500 Waiver of Use of Formula to Determine Civil Penalty.
- R614-401-600 Procedures for Assessment of Civil Penalties—Proposed Assessment.
- R614-401-700 Procedures for Informal Assessment Conference.
- R614-401-800 Request for Formal Hearing.
- R614-401-900 Final Assessment and Payment of Penalty.
- R614-402 Inspection and Enforcement: Individual Civil Penalties.
- R614-402-100 Information on Individual Civil Penalties.
- R614-402-200 When an Individual Civil Penalty May Be Assessed.
- R614-402-300 Amount of the Individual Civil Penalty.
- R614-402-400 Procedure for Assessment of Individual Civil Penalty.
- R614-402-500 Payment of Penalty.

(o) Revisions to the following sections of the Utah Code Annotated 1953, title 40, as submitted to OSM on November 13, 1989, and revised on May 29, 1990, are approved effective August 13, 1990.

- 40-10-10 Permit Applications
- 40-10-14 Permit Findings Issued to the Applicant and Other Interested Parties
- 40-10-20 Civil Penalty for Violations
- 40-10-21 Civil Actions
- 40-10-25 Dedicated Credits, Transfer of Funds, and Investment By State Treasurer
- 40-10-30 Judicial Review of Rules and Orders
- 40-10-31 Adjudicative Procedures That Supersede Chapter 46b, Title 63

(p) Revisions to the following sections of the Utah Code Annotated 1953, title 40, as submitted to OSM on October 10, 1990, are approved effective January 29, 1991: U.C.A. 40-10-6.5 (1), (2), and (3), rulemaking authority and procedures, and U.C.A. 40-10-6.6 (1) and (2), deadline for review and proposal of revision of rules, and deadline for revision of rules.

(q) With the exceptions of (1) R614-100-200, the phrase "the prohibition caused by 40-10-24 of the Act" in subsection (c)(ii) of the definition of "valid existing rights;" (2) R614-100-200, the phrase "and may not include public roads as determined on a site-

sufficient time to consider and comment on them. FDA agrees in part with the request and is extending both comment periods for 30 days. Accordingly, the comment periods for these final rules are extended to October 15, 1993. However, the medical device tracking final rule became effective on August 29, 1993, and this extension of the comment period does not affect the obligation of manufacturers to have tracking systems in place.

Interested persons may on or before October 15, 1993, submit to the Dockets Management Branch (address above) written comments regarding these final rules. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 14, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-22819 Filed 9-14-93; 3:53 pm]

BILLING CODE 4160-01-F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2606 and 2617

Rules for Administrative Review of Agency Decisions; Standard Terminations of Single-Employer Plans; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule; correction.

SUMMARY: This document corrects the interim rule published Tuesday, August 24, 1993 (58 FR 44738), which amended the PBGC's regulations governing administrative review of agency decisions and standard terminations of single-employer plans to provide for modification of certain of the deadlines in those regulations in the event of a major disaster. This action is needed to correct certain errors.

EFFECTIVE DATE: August 24, 1993.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Renae R. Hubbard, Special Counsel, Office of the General Counsel (Code 22000), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-1958 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The interim rule that is the subject of these

corrections amended parts 2606 and 2617 of the PBGC's regulations, Rules for Administrative Review of Agency Decisions and Standard Terminations of Single-Employer Plans, to provide disaster victims with relief from certain deadlines imposed by these regulations.

As published, the proposed rule contains certain errors which are in need of correction. Accordingly, the publication on August 24, 1993 of the interim rule, which was the subject of FR Doc. 93-20600, is corrected as follows:

1. On page 44738, in the third column, in the nineteenth line of the second paragraph, after "notice" insert ", or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is in such an area".

2. On page 44739, in the second column, in the first line, after "sponsor" insert ", or the office of the service provider, bank, insurance company, or other person maintaining the necessary records."

3. On page 44739, in the second column, in the sixteenth line of the fourth full paragraph, after "relieving" insert "aggrieved persons of".

§ 2606.4 [Corrected]

4. On page 4470, in the first column, in § 2606.4(b)(1), in the fifth line, after "area" insert ", or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within a designated disaster area".

§ 2617.25 [Corrected]

5. On page 44470, in the second column, in § 2617.25(a)(2)(i), in the sixth line, after "administrator" insert ", or the office of the service provider, bank, insurance company, or other person maintaining the information necessary to issue the notices of plan benefits required by § 2617.23 or to file the standard termination notice required by this section."

§ 2617.28 [Corrected]

6. On page 44740, in the third column, in § 2617.28(f)(4)(i), in the sixth line, after "administrator" insert ", or the office of the service provider, bank, insurance company, or other person maintaining the information necessary

to complete the distribution of plan assets."

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93-22806 Filed 9-16-93; 8:45 am]

BILLING CODE 7702-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of proposed amendment.

SUMMARY: OSM is announcing its decision to approve, with certain exceptions and additional requirements, a proposed amendment to the Utah permanent regulatory program (Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists primarily of changes to provisions of the Utah program pertaining to backfilling and grading performance standards and the reclamation of highwalls. The amendment is primarily intended to clarify the Utah regulations regarding highwall retention under the Utah approximate original contour alternative, and add regulations regarding highwall retention at underground mines that have operated continuously from before the effective date of SMCRA to the present.

EFFECTIVE DATE: September 17, 1993.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette NW., suite 1200, Albuquerque, NM 87102; Telephone (505) 766-1486.

SUPPLEMENTARY INFORMATION:

- I. Background on the Utah Program.
- II. Submission of Proposed Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Effect of Director's Decision.
- VII. Procedural Determinations.

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program for the regulation of coal exploration and coal mining and reclamation operations on non-Federal

Mountain Coal Company (MCC)
P.O. Box 1378
Price, UT 84501
801-637-5050

ACT/007/017
Gorden Creek 3 & 6 Mines

11/20/91
Complete inspection

Mitchell S. Rollings, 370, OSM
Susan White, DOGM
Bill Malencik, DOGM
Dan Guy, Manager of Permitting and Compliance, MCC

This was a complete, random sample, oversight inspection. The mine is inactive and reclaimed. There was snow cover on all of the site except for a small part of the road. The performance bond is with United Pacific Insurance Co., #U629895, for \$138,400. The bond was reduced to this amount by a phase I bond release granted 6/26/87. The liability insurance is with CIGNA and is valid for the period 1/1/90 - 1/1/93. The UPDES permit, #UTG040014, is valid for the period 7/1/91 - 4/30/93. This is considered a non-federal mine. This last sedimentation pond annual certification is for 1990. The water monitoring records are current. One report was identified with the designation for the pond discharge, but was actually taken from above the pond. This report shows values that exceed the effluent limitations for a pond discharge but is not applicable since the sample was taken from above the pond.

The access road for this site is permitted from where the gate is located off the county route to the mine. The road has been approved as permanent. MCC reduced the width of the road by ripping, seeding, and mulching one side to the point that it is now one lane. Reclamation of the road did not include backfilling the cut slopes. One culvert exists that directs runoff from the disturbed area to the sedimentation pond. Just below this is a swale across the road that directs undisturbed area runoff past the sedimentation pond. The parts of the road that were not snow covered appeared to be adequately surfaced and drained.

The sedimentation pond is permanent. Spillways consist of a riser pipe and a grouted emergency channel. The pond was not discharging. The sediment marker showed that adequate capacity remains.

The portals and stockpile areas had some highwall showing, but I told the DOGM inspectors that I would not address this issue until the Hidden Valley highwall issue was resolved. The last written direction on that issue was that highwalls had to replace a cliff mined through or enhance an existing cliff. There were some vertical features in the vicinity of the disturbed area. One such feature is about 50 feet high and about 200 feet long. The road cuts are as extensive as the highwalls.

The upper portal location is approved to have a section of silt fence in place along the outside edge of the disturbed area. There is a ditch in this location that takes runoff to the ditch that parallels the road. This actually appears to be a better control. DOGM is currently reviewing a revision to the permit and the ditch is one of the deficiencies noted.

We could not make an assessment of the success of vegetation because of the snow cover, but we did not see any indications of a problem. There are a couple of old road cuts that run close to the reclaimed area. These roads were developed pre-law for purposes other than mining. MCC should show these cuts on a map and document their existence so that MCC is not held responsible for them at some time in the future.