0013

Document Information Form

Mine Number: _____

File Name: Outgoing

To: DOGM

From:

Person N/A

Company GORDON CREEK MINING COMPANY

Date Sent: JUNE 28, 1994

Explanation:

Revised Rule Regarding Highwalls, UT-25-FOR.
Enclosure Number 2

cc:

File in:
C/007, 017, **Outgoing**
Refer to:
- ☐ **Confidential**
- ☐ **Shelf**
- ☐ **Expandable**

Date _____ For additional information

State of Utah
Division of Oil, Gas and Mining
Revised Rule Regarding Highwalls, UT-25-FOR

June 28, 1994 - Enclosure No. 2

R645-100-200. Definitions~~[.]~~

"Highwall" means the face of exposed overburden ~~[and/or]~~ and coal in an open cut of ~~[a]~~ surface coal mining and reclamation activities or for entry to underground ~~[coal]~~ mining activities.

"Continuously Mined Areas" means land which was mined for coal prior to August 3, 1977, the effective date of the Federal Act, and where mining continued after that date.

R645-301-553. General Provisions on Highwalls and Backfilling and Grading.

Backfilling and grading design criteria ~~[must]~~ will be described in the permit application. ~~[For the purposes of UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES nothing]~~ Nothing in R645-301-553 will prohibit the placement of material in road and portal pad embankments located on the downslope, so long as the material used and the embankment design comply with the applicable requirements of R645-301-500 and R645-301-700 and the material is moved and placed in a controlled manner.

Operators are required by R645-301-553 through R645-301-553.552 to reclaim all highwalls created by coal mining operations. The requirements for highwall reclamation or reduction on previously mined areas (PMA's) and continiously mined areas (CMA's) may be found at R645-301-553.600 through R645-301-553.612. The requirements for reclaiming, reducing, or restoring highwalls under the Approximate Original Contour provisions may be found at R645-301-553.650 through R645-301-553.653.

For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES rough backfilling and grading will follow coal removal by not more than 60 days or 1500 linear feet. The Division may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under R645-301-542.200, that additional time is necessary.

553.100 Disturbed Areas.

Disturbed areas will be back

553.110~~[.]~~ Achieve the approximate or
R645-301-553.600 through

File in:
☐ Confidential
☐ Shelf
☐ Expandable
Refer to Record No. 0013 Date 6/28/94
In C/ 007, 012, Outgoing
For additional information

State of Utah
Division of Oil, Gas and Mining
Revised Rule Regarding Highwalls, UT-25-FOR

June 28, 1994 - Enclosure No. 2

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553.100 Disturbed Areas.

Disturbed areas will be backfilled and graded to:

553.110~~[.]~~ Achieve the approximate original contour, except as provided in R645-301-553.600 through R645-301-~~[553.642]~~ 553.612

which address the compliance measures available for previously mined areas (PMA's) and continuously mined areas (CMA's);

553.120[~~.~~] Eliminate all highwalls, spoil piles, and depressions, except as provided in R645-301-552.100 (small depressions); R645-301-[~~553.620~~] 553.600 through R645-301-553.612 (previously mined [~~highwalls~~]] areas and continuously mined areas); and in R645-301-553.650 [~~(retention of highwalls);~~] through R645-301-553.653 (highwall management under the Approximate Original Contour (AOC) provisions);

553.130[~~.~~] Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and [~~to prevent slides;~~] prevents slides, except as provided in R645-301-553.530, which addresses alternative criteria for stability and the protection of the environment and the public health and safety;

553.140[~~.~~] Minimize erosion and water pollution both on and off the site; and

553.150[~~.~~] Support the approved [~~postmining~~] post mining land use.

553.200[~~.~~] Spoil and Waste. Spoil and waste materials will be compacted where advisable to ensure stability or to prevent leaching [~~or~~] of toxic materials.

553.210[~~.~~] Spoil, except as provided in R645-301-537.200 (Settled and Revegetated Fills), for the purposes of UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES, and except where excess spoil is disposed of in accordance with R645-301-211, R645-301-212, R645-301-412.300, R645-301-512.210, R645-301-512.220, R645-301-514.100, R645-301-528.310, R645-301-535.100 through R645-301-535.130, R645-301-535.300 through R645-301-535.500, R645-301-536.300, R645-301-542.720, R645-301-553.240, R645-301-745.100, R645-301-745.300, and R645-301-745.400[~~, and~~] will be returned to the mined[~~-~~]out surface [~~area~~] areas (UNDERGROUND COAL MINING AND

RECLAMATION ACTIVITIES) or mined~~[-out]~~ area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES).

553.220~~[.]~~ Spoil may be placed on the area outside the mined-out surface area (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or in the mined-out area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES) in ~~[nonsteep]~~ non-steep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

553.221~~[.]~~ All vegetative and organic material will be removed from the area;

553.222~~[.]~~ The topsoil on the area will be removed, segregated, stored, and redistributed in accordance with R645-301-232.100 through R645-301-232.600, R645-301-234, R645-301-242, and R645-301-243; and

553.223~~[.]~~ The spoil will be backfilled and graded on the area in accordance with R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.420, R645-301-553.600, and R645-301-553.900.

553.230~~[.]~~ Preparation of final graded surfaces will be conducted ~~[so that the final graded surfaces are configured]~~ in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

553.240~~[.]~~ The final configuration of the fill (excess spoil) will be suitable for the approved postmining land use. Terraces may be constructed on the outslope of the fill if required for stability, control of erosion, to conserve soil moisture, or to facilitate the approved postmining land use. The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent).

553.250~~[.]~~ Refuse Piles.

553.251[.] The final configuration for the refuse pile will be suitable for the approved postmining land use. Terraces may be constructed on the outslope of the refuse pile if required for stability, control of erosion, conservation of soil moisture, or facilitation of the approved postmining land use. The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent).

553.252[.] Following final grading of the refuse pile, the coal mine waste will be covered with a minimum of four feet of the best available, nontoxic and noncombustible material, in a manner that does not impede drainage from the underdrains. The Division may allow less than four feet of cover material based on physical and chemical analyses which show that the requirements of R645-301-244.200 and R645-301-353 through R645-301-357[.] <u>are met.</u>

553.260[.] Disposal of coal processing waste and underground development waste in the mined-out surface area (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or mined-out area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES) will be in accordance with R645-301-210, R645-301-512.230, R645-301-513.400, R645-301-514.200, R645-301-515.200, R645-301-528.322, R645-301-528.320, R645-301-536 through R645-301-536.200, R645-301-536.500, R645-301-536.900, R645-301-542.730, R645-301-553.250, and R645-301-746.100 through R645-301-746.200, except that a long-term static safety factor of 1.3 will be achieved.

553.300[.] Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining will be adequately covered with nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with R645-301-731.100 through R645-301-731.522 and R645-301-731.800, to prevent sustained combustion, and to minimize adverse effects on plant growth and <u>on</u> the approved postmining land use.

553.400[.] Cut-and-fill terraces may be allowed by the Division where:

553.410[.] Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

553.420[.] Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

553.500[.] Previously Mined Areas[.] (PMA's), Continuously Mined Areas (CMA's), and Areas with remaining Highwalls Subject to the Approximate Original Contour (AOC) Provisions.

553.510[.] Remining operations on ~~[previously mined areas that contain a preexisting highwall]~~ PMA's, CMA's, or on areas containing remaining highwalls subject to the AOC Provisions will comply with the requirements of R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.900, and R645-302-234, except as provided in R645-301-553.500[.] and 301-553.650.

553.520[.] ~~[The requirements of R645-301-553.110 and R645-301-553.120 requiring the elimination of]~~ The backfill of all remaining highwalls ~~[will not apply to remining operations where the volume of all reasonably available spoil is demonstrated in writing tothe Divsiion to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall will be eliminated to the maximum extent technically practical in accordance with the following criteria:~~

~~[553.521.] [All spoil generated by the remining operation and any other reasonably available spoil will be used to backfill the area. Reasonably available spoil in the immediate vicinity of the remining operation will be included within the permit area;]~~

~~553.522]~~ ~~[The backfill]~~ will be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability[;].

~~[553.523.]~~ 553.530 Any remaining highwall ~~[remnant]~~ will be stable and not pose a hazard to the public health and safety or to the environment. The operator will demonstrate, to the satisfaction of the Division, that the remaining highwall ~~[remnant]~~ achieves a minimum long-term static safety factor of 1.3 and prevents slides, or provide an alternative criterion to establish that the remaining highwall is stable and does not pose a hazard to the public health and safety or to the environment; and

~~[553.524.]~~ 553.540 Spoil placed on the outslope during previous mining operations will not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

~~[553.600.] [Approximate Original Contour. Postmining slopes may vary from the approximate original contour when:]~~

~~[553.610.] [Approval is obtained from the Division in accordance with R645-302-270;]~~

~~[553.620.] [Approval is obtained from the Division for incomplete elimination of highwalls in previously mined areas in accordance with R645-301-553.500;]~~

~~[553.630.]~~ 553.550 For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES, approval ~~[is]~~ will be obtained from the Division for mountaintop removal operations in accordance with R645-302-220 through R645-302-226~~[.]~~ and if applicable:

~~[553.640.] [For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES:]~~

~~[553.641.]~~ 553.551 The standards for thin overburden in R645-301-553.700 ~~[are]~~ will be met~~[;]~~, or

~~[553.642.]~~ 553.552 The standards for thick overburden in R645-301-553.800 ~~[are]~~ will be met.

~~[553.650.]~~ 553.600 Previously Mined Areas (PMA's) and Continuously Mined Areas (CMA's).

Mountain Coal Company
West Elk Mine
Post OfficBox 591
Somerset, Colorado 81434
Telephone 303 929-5015

Gene E. DiClaudio
President

RECEIVED
JUN 29 1994
DIV. OF OIL, GAS & MINING

June 28, 1994

Mr. Tom Ehmett
Director, Albuquerque Field Office
United States Department of Interior
Office of Surface Mining Reclamation and Enforcement
505 Marquette, Suite 1200
Albuquerque, NM 87102

File ACT/007/017 #5
Copy Jim Fowell, Pam, Joe

Re: **Ten-Day Notice: Gordon Creek Nos. 3 and 6 Mines**

Dear Mr. Ehmett:

The Albuquerque Office of the United States Office of Surface Mining Reclamation and Enforcement ("OSMRE") recently issued a Ten-Day Notice to the State of Utah Division of Oil, Gas and Mining ("Division") alleging that a violation exists at Mountain Coal Company's Gorton Creek Nos. 3 and 6 Mines, located near Price, Utah. The Gordon Creek Nos. 3 and 6 Mines are reclaimed properties, yet the Ten-Day Notice claims that Mountain Coal Company has violated the Utah program implementing the Surface Mining Control and Reclamation Act (SMCRA) because small portions of the face-up areas at these Mines remained exposed after reclamation. As the Division will no doubt explain in its response to the Ten-Day Notice, leaving portions of these face-up areas is not a violation of the Utah program.[1] Mountain Coal Company nonetheless wishes to take this opportunity to review of the history of the reclamation of this site, and to discuss the inequitable implications of the Ten-Day Notice issued by the Albuquerque Office of OSMRE.

[1] The Ten-Day Notice alleges that Mountain Coal Company has violated Utah Program Rules R645-301 - 553.520; R645-301-553.521; R645-301-553.120. Mountain Coal does not believe that these regulations have been violated and will, if necessary, offer a defense to these allegations at the appropriate time.

Mining and Reclamation at the Gordon Creek Nos. 3 and 6 Mines.

The Gordon Creek Nos. 3 and 6 Mines were opened by Ura Swisher in 1975, and were in continuous operation until the mid-1980s. All major disturbance, including creation of portal face-up areas, occurred prior to the enactment of SMCRA. Mountain Coal Company's predecessor, Beaver Creek Coal Company, purchased these mines in 1980.

The Gordon Creek Nos. 3 and 6 Mines ceased operations in September 1983. The reclamation of the site on which both mines are located was completed in November of 1986. As described in the Division's Final Technical Analysis of the reclamation (Attachment A), restoration of the site to approximate original contour was impractical due to the lack of fill material. As a result, remnants of the portal face-up areas were left in place. Thus the reclamation of the site was conducted in complete compliance with the Utah program and the permit issued by the Division. The site qualified for Phase I bond release in June of 1987.

Consistent with OSMRE's oversight rule in Utah, OSMRE reviewed the attached Final Technical Analysis, the permit for the reclamation of the site, and the application for Phase I bond release of the site. Indeed, OSMRE conducted an inspection of the Gordon Creek Nos. 3 and 6 Mines Site in August of 1987 (shortly after Phase I bond release), and noted that "[n]umerous highwalls have been left by the operator but the DOGM permit specifically allows them to remain." (Attachment B).

Mountain Coal is justifiably proud of its reclamation of the Gordon Creek Nos. 3 and 6 Minesite. In 1988, the State of Utah designated the site as the State's outstanding reclamation project and nominated it for a Federal Excellence in Surface Mining Award. OSMRE has always been aware that the reclamation plan for the Gordon Creek Nos. 3 and 6 Mines allowed for retention of portions of the portal face-up areas. The recent Ten-Day Notice is the first evidence that OSMRE believes that the reclamation of the Nos. 3 and 6 Mines is anything less than superior. Indeed, representatives of Mountain Coal met with the Albuquerque Office of OSMRE on December 7, 1993, and one of the signatories of the Ten-Day Notice, Henry Austin, described the reclamation of the Nos. 3 and 6 Mines as a reclamation project that is entirely satisfactory to OSMRE.

The Implications of the Ten-Day Notice

The Ten-Day Notice from OSMRE's Albuquerque Office alleges that Mountain Coal Company improperly reclaimed the Gordon Creek Nos. 3 and 6 Minesite by leaving portions of portal face-ups in place. The Division approved leaving these vertical faces after reclamation for two reasons. First, because mine operations began before

the enactment of SMCRA, the early operators of the Gordon Creek Mines did not preserve spoil, and therefore insufficient spoil existed to backfill fully all vertical faces. Second, the vertical faces left behind are geomorphically similar to other outcrops in the vicinity. Under the Utah program, either rationale was sufficient justification for allowing these vertical faces to remain after reclamation. Mountain Coal Company reclaimed the site in 1987 in strict compliance with a permit issued by the Division and approved by OSMRE. The permit conditions are consistent with the OSMRE-approved Utah program, and thus the drafters of the Ten-Day Notice are mistaken in alleging that the reclamation of the site violates Utah regulations.

Further, the drafters of the Ten-Day Notice apparently want Mountain Coal to destroy the existing reclamation to allow additional backfilling of the site. Disturbing this minesite will have no environmental benefit and is likely to cause considerable environmental harm, at least on a short-term basis. The vegetation at the site is well-established and the reclamation has no adverse impact on the area's hydrology and the portal face-ups are stable. All regulatory agencies -- including OSMRE --agree that the reclamation more than adequately protects other resources. Further, the private owner of the lands reclaimed by Mountain Coal is entirely pleased with the results of this reclamation. Indeed, Mountain Coal understands that all parties reviewing the site for Phase II bond release agree that it meets the conditions necessary for that step in the bond release process.

The State of Utah made a determination concerning the reclamation of this site that was and is consistent with the Utah program and SMCRA. OSMRE's policy concerning approximate original contour (AOC) directs OSMRE to defer to the State's determination:

> While a subsequent different AOC opinion of an OSMRE inspector demonstrates the subjectivity inherent in interpreting AOC, it nevertheless serves no useful purpose to substantially re-disturb a stabilized and reclaimed minesite when the regulatory authority has exercised its discretion in good faith and remains satisfied that the applicable program standards, including restoration of AOC and postmining land use, have been met.

OSMRE Directives System: Approximate Original Contour (subject No. INE-26) (May 26, 1987) (Attachment C). While OSMRE may now wish to second-guess the reclamation process at the Gordon Creek Nos. 3 and 6 Mines, the fact remains that both the Division and OSMRE found at the time reclamation was conducted that the approach taken to reclamation was consistent with the Utah program and SMCRA, and adequately protected the area's resources. An operator must be allowed to rely on such regulatory determinations. It is quite simply too late for OSMRE to attempt

to reopen the settled issue of how the Gordon Creek Nos. 3 and 6 Mines are to be reclaimed. Requiring the disruption and re-reclamation of this site would create no additional environmental benefit, would be inconsistent with the desires of the private landowner, is not required by SMCRA or the Utah Program, and would be fundamentally unfair to Mountain Coal Company.

Mountain Coal recognizes that OSMRE considers the proper interpretation of the standard for reclamation to approximate original contour to be of great moment. Mountain Coal is not asking OSMRE to prejudge that important question. Rather, Mountain Coal asks only that OSMRE agree to meet with it and the Division prior to OSMRE's final decision on any enforcement action resulting from the Ten-Day Notice. Mountain Coal would welcome the opportunity to discuss a reasonable and fair resolution of all approximate original contour issues that affect Mountain Coal Company properties in Utah.

Thank you for your attention to the issues raised in this letter. Please feel free to contact me to discuss this issue or if you need any additional information.

Sincerely,

Eugene E. DiClaudio

Eugene E. DiClaudio
President

EED:pd

cc: Allen Klein, Assistant Director of Field Operations, OSMRE
Pamela Grubaugh-Littig, Utah Division of Oil, Gas and Mining

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President

EED:pd

cc: Allen Klein, Assistant Director of Field Operations, OSMRE
✓Pamela Grubaugh-Littig, Utah Division of Oil, Gas and Mining

This was faxed to AFO - PM on 6/29.

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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
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Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

June 28, 1994

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Re: UT-25-FOR

Dear Mr. Ehmett:

Thank you for the time extension to the deadline for response on this program amendment which was contained in your letter of May 27, 1994. Utah has performed the necessary changes to this amendment, based on our staff discussion of May 12, 1994. The changes consist of a new approach to the state rules governing the treatment of highwalls following mining.

Two enclosures are included with this letter which, along with this letter constitute a revised program amendment. Enclosure No. 1 is a revised draft of the highwalls related rules. Enclosure No. 2 is a changes-shown format of the same rules. Both enclosures are dated June 28, 1994. In addition to the suggestions made by the May 12, 1994 meeting participants, other changes include:

1. Grouping general backfilling and grading requirements in one section R645-301-553 through R645-301-553.552;

2. Separating requirements for highwall treatment on previously and continuously mined area from treatment on other areas (R645-301-553.600); and

3. Addressing the requirements for highwall management under the approximate original contour provisions under one section (R645-301-553.650).

Utah has performed some other changes for clarification and simplicity. We have:

1. Created a definition for "Continuously Mined Area";

2. Used acronyms for continuously and previously mined area references (CMA and PMA); and

3. Avoided the use of "Highwall Remnant" and "Retained Highwall" for the purpose of clarification.

I hope that the enclosed material helps in your accomplishing an expedited review of this revised submittal. Please contact me or Ron Daniels if you have any questions or comments.

Very truly yours,

Samuel P. Bragg
for
James W. Carter
Director

jbe
Enclosures (2)
cc/enc: Denver, WTC
RWD
P:COALUT25.LTR

State of Utah
Division of Oil, Gas and Mining
Revised Rule Regarding Highwalls, UT-25-FOR

June 28, 1994 - Enclosure No. 1

R645-100-200. Definitions

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553.110 Achieve the approximate original contour, except as provided in R645-301-553.600 through R645-301-553.612 which address the compliance measures available for previously mined areas (PMA's) and continuously mined areas (CMA's);

553.120 Eliminate all highwalls, spoil piles, and depressions, except as provided in R645-301-552.100 (small depressions); R645-301-553.600 through R645-301-553.612 (previously mined areas and continuously mined areas); and in R645-301-553.650 through R645-301-553.653 (highwall management under the Approximate Original Contour (AOC) provisions);

553.130 Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and prevents slides, except as provided in R645-301-553.530, which addresses alternative criteria for stability and the protection of the environment and the public health and safety ;

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553.220 Spoil may be placed on the area outside the mined-out surface area (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or in the mined-out area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES) in non-steep slope areas to

restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

553.221 All vegetative and organic material will be removed from the area;

553.222 The topsoil on the area will be removed, segregated, stored, and redistributed in accordance with R645-301-232.100 through R645-301-232.600, R645-301-234, R645-301-242, and R645-301-243; and

553.223 The spoil will be backfilled and graded on the area in accordance with R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.420, R645-301-553.600, and R645-301-553.900.

553.230 Preparation of final graded surfaces will be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

553.240 The final configuration of the fill (excess spoil) will be suitable for the approved postmining land use. Terraces may be constructed on the outslope of the fill if required for stability, control of erosion, to conserve soil moisture, or to facilitate the approved postmining land use. The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent).

553.250 Refuse Piles.

553.251 The final configuration for the refuse pile will be suitable for the approved postmining land use. Terraces may be constructed on the outslope of the refuse pile if required for stability, control of erosion, conservation of soil moisture, or facilitation of the approved postmining land use. The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent).

553.252 Following final grading of the refuse pile, the coal mine waste will be covered with a minimum of four feet of the best

available, nontoxic and noncombustible material, in a manner that does not impede drainage from the underdrains. The Division may allow less than four feet of cover material based on physical and chemical analyses which show that the requirements of R645-301-244.200 and R645-301-353 through R645-301-357 are met.

553.260 Disposal of coal processing waste and underground development waste in the mined-out surface area (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or mined-out area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES) will be in accordance with R645-301-210, R645-301-512.230, R645-301-513.400, R645-301-514.200, R645-301-515.200, R645-301-528.322, R645-301-528.320, R645-301-536 through R645-301-536.200, R645-301-536.500, R645-301-536.900, R645-301-542.730, R645-301-553.250, and R645-301-746.100 through R645-301-746.200, except that a long-term static safety factor of 1.3 will be achieved.

553.300 Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining will be adequately covered with nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with R645-301-731.100 through R645-301-731.522 and R645-301-731.800, to prevent sustained combustion, and to minimize adverse effects on plant growth and on the approved postmining land use.

553.400 Cut-and-fill terraces may be allowed by the Division where:

553.410 Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

553.420 Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

553.500 Previously Mined Areas (PMA's), Continuously Mined Areas (CMA's), and Areas with remaining Highwalls Subject to the Approximate Original Contour (AOC) Provisions.

553.510 Remining operations on PMA's, CMA's, or on areas containing remaining highwalls subject to the AOC Provisions will comply with the requirements of R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.900, and R645-302-234, except as provided in R645-301-553.500 and 301-553.650.

553.520 The backfill of all remaining highwalls will be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

553.530 Any remaining highwall will be stable and not pose a hazard to the public health and safety or to the environment. The operator will demonstrate, to the satisfaction of the Division, that the remaining highwall achieves a minimum long-term static safety factor of 1.3 and prevents slides, or provide an alternative criterion to establish that the remaining highwall is stable and does not pose a hazard to the public health and safety or to the environment; and

553.540 Spoil placed on the outslope during previous mining operations will not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

553.550 For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES, approval will be obtained from the Division for mountaintop removal operations in accordance with R645-302-220 through R645-302-226 and if applicable:

553.551 The standards for thin overburden in R645-301-553.700 will be met, or

553.552 The standards for thick overburden in R645-301-553.800 will be met.

553.600 Previously Mined Areas (PMA's) and Continuously Mined Areas (CMA's).
For PMA's and CMA's the special compliance measures include:

553.610 The requirements of R645-301-553.110 and R645-301-553.120, addressing the elimination of highwalls, will not apply to PMA's or CMA's where the volume of all reasonably available spoil is demonstrated in writing to the Division to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall will be eliminated to the maximum extent technically practical in accordance with the following requirements:

553.611 All spoils generated by the remining operation or underground mining operation conducted before August 3, 1977, and continued after that date and any other reasonably available spoil will be used to backfill the area;

553.612 Reasonably available spoil in the immediate vicinity of the remining operation or underground mining operation conducted before August 3, 1977, and continued after that date will be included within the permit area.

553.650 Highwall Management Under the Approximate Original Contour Provisions
Coal Mining and Reclamation Operations which are not located on PMA's or CMA's and are located on areas which are subject to the approximate original contour provisions which include:

553.651 For non-mountaintop removal mining on steep slopes, approval under R645-302-553-270.

553.652. For situations where a permittee seeks approval for a remaining highwall under the AOC provisions, the permittee will establish, and the Division will find in writing that the remaining highwall will achieve the stability requirements of R645-302-553.530, that the remaining highwall will meet the approximate original contour criteria of R645-301-553.510 and R645-301-553.520, and that the proposal meets the following criteria:

553.652.100 The remaining highwall will not be greater in height or length than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations;

553.652.200 The remaining highwall will replace a preexisting cliff or similar natural premining feature and will resemble the structure, composition, and function of the natural cliff it replaces;

553.652.300 The remaining highwall will be modified, if necessary, as determined by the Division to restore cliff-type habitats used by the flora and fauna existing prior to mining;

553.652.400 The remaining highwall will be compatible with the postmining land use and the visual attributes of the area; and

553.652.500 The remaining highwall will be compatible with the geomorphic processes of the area.

553.653 Applicability.
Any mining and reclamation plan approved or permit issued by the Division after December 13, 1982 for the reclamation or reduction of highwalls resultant from coal mining will be subject to the curent R645-301-553 rules.

jbe
P:COALUT25.LTR

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Suite 1200
505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

cc: JWC
RWD
JPB
orig file

May 27, 1994

RECEIVED
JUN - 2 1994

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

Dear Mr. Carter:

In accordance with our May 12, 1994, meeting regarding Utah's proposed amendment rules regulating highwall reclamation (SPAT UT-025-FOR), I am hereby extending the due date for submission of a revised amendment until June 30, 1994.

The original due date specified in the Office of Surface Mining Reclamation and Enforcement's letter to you of March 31, 1994, (A.R. No. UT-908) was April 13, 1994. The due date was initially extended until May 30, 1994, by my letter dated May 9, 1994, (A.R. No. UT-924) because of the scheduled meeting in Denver. However, at the meeting it was agreed that the due date would be extended until June 30, 1994.

Utah's willingness to meet and discuss concerns regarding this amendment was greatly appreciated. I understand that the overall consensus was that the meeting was very productive.

Sincerely,

Daniel N. Martinez, Acting Director
Albuquerque Field Office

cc JWC
FPB
PGL
orig mining file

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Suite 1200
505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

July 14, 1994

RECEIVED
JUL 18 1994
DIV. OF OIL, GAS & MINING

CERTIFIED RETURN RECEIPT #P-293-288-857

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

Copy Joe

Re: Ten-Day Notice (TDN) X-94-020-001 TV3, Mountain Coal Company, Gordon Creek #3 and #6, Permit ACT/007/017

Dear Mr. Carter:

Based on information in your response to the above TDN and additional information found in the Mining and Reclamation Plan, the Albuquerque Field Office has determined that the wrong regulation was cited in parts one and two of the TDN. Part three of the TDN is properly cited, but to avoid confusion, TDN X-94-020-179-001 TV3 is being withdrawn and TDN X-94-020-179-002 is being issued.

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

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Surface Mining
Reclamation and Enforcement

TEN-DAY NOTICE

Number: X-94-020-179-002 TV 1

Originating Office:
OFFICE OF SURFACE MINING
505 MARQUETTE AVE. N.W.
SUITE 1200 ALBUQUERQUE, N.M. 87102
Telephone Number: 505-766-1486

Ten-Day Notice to the State of UTAH

You are notified that, as a result of FEDERAL INSPECTION 5-18-94 (e.g. a federal inspection, citizen information, etc.) the Secretary has reason to believe that the person described below is in violation of the Act or a permit condition required by the Act. If the State Regulatory Authority fails within ten days after receipt of this notice to take appropriate action to cause the violation(s) described herein to be corrected, or to show cause for such failure and transmit notice of your action to the Secretary through the originating office designated above, then a Federal inspection of the surface coal mining operation at which the alleged violation(s) is occurring will be conducted and appropriate enforcement action as required by Section 521(a)(1) of the Act will be taken.

Permittee: MOUNTAIN COAL COMPANY
(Or Operator if No Permit)
County: EMERY
Mailing Address: P.O. BOX 1378 PRICE, UT. 84501
Permit Number: ACT/007/017
Mine Name: GORDON CREEK #3 AND #6

☐ Surface
☒ Underground
☐ Other

NATURE OF VIOLATION AND LOCATION: FAILED TO ELIMINATE ALL HIGHWALLS AT MINE #3 AND #6.

Section of State Law, Regulation or Permit Condition believed to have been violated: R645-301-553.120

NATURE OF VIOLATION AND LOCATION:

Section of State Law, Regulation or Permit Condition believed to have been violated:

NATURE OF VIOLATION AND LOCATION:

Section of State Law, Regulation or Permit Condition believed to have been violated:

Remarks or Recommendations:

RECEIVED
JUL 18
DIV. OF OIL, GAS & MINING

Date of Notice: 7-13-94

Signature of Authorized Rep.: Edzel R. Pugh

Print Name and ID: EDZEL R. PUGH, 179

Distribution: Original-State's Copy, Blue-Field Office, Yellow-Inspector's Copy

IE-160 (3/81)