



United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
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ALBUQUERQUE, NEW MEXICO 87102



In Reply Refer To:

May 4, 1990

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

RECEIVED
MAY 07 1990

Re: Centennial Mine, TDN 90-02-107-4(1-5)

DIVISION OF
OIL, GAS & MINING

Dear Dr. Nielson:

The following is a written finding, in accordance with 30 CFR 842.11, regarding the Division of Oil, Gas, and Mining's (DOGM) response to the above-referenced Ten-Day Notice (TDN).

On March 28-29, 1990, the Albuquerque Field Office (AFO) conducted a random sample inspection (RSI) of the Andalex Resources, Centennial Mine. The inspection resulted in the issuance of the five-part TDN referenced above for alleged violations of the Utah regulations. DOGM received the TDN via certified mail on April 9, 1990, thereby setting the response due date at April 20, 1990. AFO received DOGM's April 19, 1990, faxed response on the same day.

Part 1 of the TDN was issued for the operator's alleged failure to file the required bond. The TDN cites UMC 800.11(A-D). The rule indicates the operator must file the bond required by the Division prior to disturbing any surface areas or extending any underground shafts * * *.

DOGM's response indicates that the Division has been working closely with the operator to ensure that a bond is in place: The response goes on to state that the Division determined that the bond must be revised after receiving as-built reports and mass balance calculations and that this was communicated to the operator in a March 28, 1990, letter. The response further states that the operator has been advised that the bond amount must be revised by April 30, 1990. The response also states that, because the problem has been addressed in a manner consistent with the State program and addressed prior to the issuance of the TDN, the TDN should be withdrawn.

AFO does not agree that the problem has been addressed in accordance with the State program. The TDN cites UMC 800.11(A-D). The rule requires the operator to file the appropriate bonding information and submit the correct bond before disturbing any surface areas or * * *.

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file
ACT 007/019* CC: L. BRAXTON
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Paragraph A of the rule requires the operator to file the appropriate bond with the Division after the permit application is approved but before the permit has been issued. DOGM approved and issued the renewed permit in March 1987 and then notified the operator via a December 23, 1987, letter that the bond information was deficient. DOGM initiated a Midterm Review on February 24, 1989. The review specifically identified the need for an evaluation of the bond. An amendment to add the Aberdeen Portals was approved by DOGM on February 22, 1989; and the operator commenced construction of the facilities on February 27, 1989. On May 4, 1989, DOGM approved another amendment that added 1.5 million tons of Federal coal to the mining and reclamation plan. Only after approval of the appropriate bond by the Division and submittal of such bond by the operator, could DOGM issue the permits "in a manner consistent with the State program." Therefore, AFO does not agree with DOGM's statement that the problem has been addressed in accordance with the State program. AFO will not withdraw the TDN. However, because DOGM has advised the operator that a revised bond must be submitted within a specified timeframe, AFO finds the Division response appropriate. AFO also expects that DOGM will take enforcement action required by the State program if the operator fails to submit the bond within the specified timeframe.

Part 2 of the TDN was issued for the operator's alleged failure to pass all surface drainage from the disturbed area through a sedimentation pond * * * before leaving the permit area. The TDN references the Meteorological Station pad outslope and the Substation.

DOGM's response states the Division considers the problem a permitting deficiency which has been corrected by requiring the operator to update the maps and narrative. The response states the information submitted by the operator includes Plate 8 which shows the areas not reporting to a pond and a discussion of the types of treatment used which represent BTCA.

DOGM's response does not indicate that the Division has approved the revised mining and reclamation plan (MRP) information. Rade Orell (AFO) contacted Daron Haddock (DOGM) on April 25 and 26, 1990, to confirm the Division's receipt of the revised information. Mr. Haddock faxed copies of the information to AFO on both April 25 and 26. However, the faxed information did not include a copy of the Division's approval. Mr. Haddock indicated during a May 1, 1990, telephone conversation that the revisions to the MRP were approved by DOGM on April 30, 1990. In addition, Mr. Haddock faxed a copy of the approval to AFO on May 1, 1990. Because DOGM has taken action to correct the permit deficiency, AFO finds the response to part 2 of the TDN appropriate.

Part 3 of the TDN was issued for the operator's alleged failure to prevent * * * additional contributions of sediment to streamflow or runoff outside the permit area. The TDN references the coal fines in undisturbed diversion UD-1.

DOGM's response states that, although coal fines were present in the diversion, they were not leaving the permit area because no streamflow or runoff was apparent during the inspection. The response further states that the operator previously installed a snowdrift-type structure along the diversion to mitigate wind-blown coal fines and that straw bales are in place in the diversion below the mine and within the permit boundary. As a note, the response states additional straw bales have been installed since the inspection (April 10, 1990) to control coal fines.

During the same telephone conversations referenced above, Rade Orell asked Daron Haddock whether the Division re-inspected the site to confirm placement of the additional straw bales. Mr. Haddock advised Mr. Orell that the operator notified the Division by telephone on April 16, 1990, that the straw bales had been installed and that this was confirmed by the Division during an April 23, 1990, inspection.

AFO finds DOGM's response to part 3 of the TDN appropriate in that the operator took action within the TDN response period to cause the violation to be corrected. Although the operator took measures to prevent additional contributions of sediment to streamflow or runoff outside the permit area, DOGM should require the operator to remove the coal fines already present in the diversion. In addition, DOGM should confirm correction of violations cited in TDN's through follow-up inspections conducted within the TDN response period.

Part 4 of the TDN was issued for the operator's alleged failure to conduct surface coal mining and reclamation activities in accordance with the terms and conditions of the approved permit. The TDN references the riprap channel at the Apex Mine truck loadout pad.

DOGM responded to the TDN by indicating that the Division considers the problem a permit defect which has been corrected by requiring the operator to remove from the MRP the commitment to riprap the channel. The response further states that this was accomplished on April 9, 1990.

AFO finds DOGM's response to part 4 of the TDN appropriate. The response is appropriate only because DOGM took action within the TDN response period to cause the violation to be corrected. However, AFO does not consider the operator's failure to comply with a specific commitment in the approved permit to be a permit defect. In addition, AFO requests that DOGM provide a copy of the revised map to this office. DOGM's approval of the revision was also discussed during the telephone conversations referenced above. A copy of the approval was faxed to AFO on May 1, 1990.

Part 5 of the TDN was issued for the operator's alleged failure to design diversions. Specifically, the inspection indicated that the design for a culvert that reports directly to a sediment pond was not included in the approved MRP.

Dr. Dianne R. Nielson

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DOGM's response indicates that the problem is a permit defect which has been corrected by requiring the operator to submit a revised map depicting the culvert and designs for the structure.

During the April 26, 1990, telephone conversation referenced above, AFO confirmed that DOGM approved the revisions to the MRP. The DOGM representative faxed a copy of the culvert design information on the same day. AFO also requested in the same conversation that DOGM provide a copy of the Division's approval of the revision. On May 1, 1990, DOGM provided a faxed copy of the Division's April 30, 1990, approval to AFO. Therefore, AFO finds DOGM's response to this part of the TDN appropriate.

If you wish to discuss the matter further, please contact me or John Kathmann at (505) 766-1486.

Sincerely,

Thomas E. Hagen
ACTING FOR

Robert H. Hagen, Director
Albuquerque Field Office