

Horizon Coal Corporation

P.O. Box 2560  
Wise, VA 24273

November 26, 1996

Susan White  
State of Utah, Department of Natural Resources  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801

Re: Horizon Coal Mine, ACT/007/020  
NOV 96-35-1-2 Violation 2 of 2

*FILE NOV FILE*

Dear Ms. White:

Horizon Coal Corporation requests DOGM to take the following actions regarding the Notice of Violation listed above:

- 1) Vacate the notice, it is issued in error.  
or, if it is not vacated;
- 2) Extend the Abatement Time until December 31, 1996 or after an appeals hearing;  
and
- 3) Provide an appeals hearing for Horizon Coal to contest this violation.

Our justification for this request is as follows:

### Vacate the Notice of Violation

Horizon was operating in accordance with the plan. The operator did not place waste into proposed reclamation drainage in Portal Canyon. The violation was issued in error. At the time of the alleged violation initial construction activities were beginning on the mine site which constitute the first priorities in order to build the sediment control pond;

- Temporary sediment controls were put in place.
- The top soil pile was being prepared to receive top soil in the upper part of Portal Canyon.
- A temporary construction road was pioneered in place so top soil from the site of the sediment pond could be hauled to the top soil pile.

The site of the alleged violation is near the embankment of coal refuse left from abandoned mines at the site. The alleged pushing of coal waste into the reclamation channel was at this site where this temporary road went across the embankment. The coal waste at this site covers the complete valley bottom of Portal Canyon. There is no existing stream channel as the old timers had placed it in a culvert (now abandoned). Horizon had no opportunity to begin building the proposed reclamation channel as described in the Mine Permit as it was following priorities established with DOGM in the Permit and at pre-construction meetings between Horizon and DOGM.

### Extend the Abatement Time

The abatement time should be extended because the actions for abatement are engineering plans and maps to document the placement of waste materials and engineering plans for reclamation of these materials. The preparation of these documents should be completed on the as-built map of the site. The site construction is nearing completion at this time.

If the NOV is not vacated, the abatement time should be extended until an appeals hearing is held. The remedial actions required for abatement are inappropriate for the violation. No actions pertaining to clean up of coal fines were required, or appropriate. It is not necessary to change the existing plans. The existing Mine Permit contains adequate plans for operations and reclamation of the site.

### Provide and Appeals Hearing

For the reasons described above Horizon believes that the violation was issued in error. Horizon requests, if necessary, the opportunity to show its case that this violation is inappropriate.

If you would like to discuss this with me or have any questions, please call me in Lakewood, Colorado at (303) 989-4242.

Sincerely,

*Bradley J. Bourquin*

Bradley J. Bourquin  
Project Manager

copy: Mary Ann Wright, DOGM  
Oliver Gushee, Pruitt, Gushee & Bachtell  
Richard Gilliam, Horizon Coal Corporation

Sent by Facsimile followed by hard copy.