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

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

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

October 31, 1989

CERTIFIED RETURN RECEIPT REQUESTED
P 879 596 457

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

Dear Mr. Hagen:

Re: TDN #X-89-2-116-2, North American Equities, Blazon #1 Mine, ACT/007/021, Folder No. 5, Carbon County, Utah

This letter responds to the above-referenced Ten-Day Notice (TDN), the certified copy of which was received at the Division's offices on October 19, 1989.

1. Number 1 of 3 reads: "Failure to eliminate or reduce all highwalls to closely resemble the general surface configuration of the surrounding terrain. Includes: highwalls remaining on backfilled portal slope; former access road cut; and highwall east of concrete pad which also contains an exposed coal seam."

   The Division agrees that the operator did not achieve total elimination of highwalls in the areas mentioned. However, the configuration of the reclaimed area was approved by the Division based on the facts that: 1) the operator used all material available on site to backfill the portal area and associated access road highwalls; 2) it was determined that bringing in the amount of material from offsite that would be needed to totally eliminate the highwall was impractical and would do environmental harm to a currently undisturbed area; and 3) an alternative postmining land use was approved for the lower pad area, so that no material from that pad was available for use in highwall mitigation.

   The alternative postmining land use of industrial was approved for the lower pad area in accordance with the requirements of UMC 817.133(c). There is nothing in this section that requires alternative land use areas to meet

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U.S.G.P.O. 1987-197-722

PS Form 3800, June 1985

P 879 596 457

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ACT/007/021

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3. Article Addressed to:

MR. OBERT HAGEN, DIRECTOR
ALBUQUERQUE FIELD OFFILCE
OFFICE SURFACE MININFG
SUITE 310, SILVEWR SQUARE
625 SILVER AVENUE, S.W.
ALBUQUERQUE, NM 87102

4. Article Number: P 879 596 457

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6. Signature — Agent: X

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PS Form 3811, Feb. 1986 DOMESTIC RETURN RECEIPT

ACT/007/021

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NATURAL RESOURCES
OIL, GAS, & MINING
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SALT LAKE CITY, UTAH 84180-1203

AOC requirements. Part (5) of this section requires that "...the plans conform to applicable accepted standards for adequate land stability, drainage, vegetative cover, and aesthetic design appropriate for the postmining use of the site." In approving the postming land use change, the Division found that this had been done.

UMC 817.101(b)(1) states that "All areas affected by surface operations ... shall be graded and restored to closely resemble the general surface configuration of surrounding terrain and blend into and compliment the drainage pattern of the surrounding terrain, **and be reclaimed to be capable of supporting the approved postmining land use.**" It is the Division's determination that the requirements of this section have been met. The operator has reclaimed the portal bench and access road highwall to the extent possible using the material available in conformance with the surrounding terrain and drainage patterns. If material from the lower pad had been used to reclaim the highwall, the area would not be capable or supporting the approved postmining landuse because there would be no lower pad available. Likewise, the cut east of the concrete pad which contains the small rider coal seam cannot be reclaimed without destroying the approved postmining land use. Please advise if additional information on #1 of 3 is required to achieve an adequate response.

2. Number 2 of 3 reads: "Failure to dispose of underground development waste as approved in the Mining and Reclamation Plan for permit #INA/007/021. Waste materials were used as backfill on the slope northeast and adjacent to the Little Snider Canyon culvert inlet area."

The operator did dispose of a small amount of underground development waste material on the north side of Little Snyder Canyon, which was not part of the approved plan. This was not determined until after the portal highwall area had been reclaimed and reseeded. The underground development waste has been tested and found to be non-toxic (Exhibit 15, Final Closure & Reclamation Plan, October, 1986). Due to the small amount of material (estimate 20 cubic yards) and the disturbance that would need to be done to the revegetated area to place the material against the highwall, the Division will allow the operator to amend his plan to cover the material and seed it where it is. The operator was notified of this during the bond release inspection and by letter and will be required to modify the approved plan by November 30, 1989. This action had been undertaken by the Division prior to the oversight

inspection, and on this basis, I feel that issuance of #2 was premature, and serves no purpose. I request that it be withdrawn.

3. Number 3 of 3 reads: "Failure to pass all surface drainage from disturbed areas through a sedimentation pond before the drainage leaves the permit area. Three areas are in violation: 1)- Reclaimed slopes of the Little Snider Canyon; 2)- Former culvert A removal area and former topsoil stockpile reclaimed areas; and 3)- disturbed area west of mine access road at minesite entrance."

   Based on an October 25, 1989 conversation between Henry Austin of OSM and Susan Linner of DOGM, part 3) should read "outslope between Ditch B and Mud Creek". With that revision, all three areas mentioned were approved as small area exemptions and are incorporated into the approved Reclamation Plan (p. 38 and Plate 10, Reclamation As-Built Report, July 21, 1989). Appropriate alternative sediment controls have been placed as required and approved. These areas would qualify as Alternative Sediment Control Areas under the Division's August 30, 1989 policy on Small Area Exemptions, which your office has a copy of. Approval of these areas is consistent with actions that were taken in response to previous TDNs and deemed appropriate. A Divison Hydrologist has determined that the sediment control measures implemented are appropriate and conform to Best Control Technology Available. Since there are no water quality standards for non-point source discharges the requirements of UMC 817.42(a)(3) do not apply.

   The Division feels that these small area exemptions were approved and implemented as per the rules and Division policy and that a TDN should not have been issued. We therefore request that part 3 of this TDN be withdrawn.

Sincerely,

Lowell P. Braxton
Associate Director, Mining

Attachment
cc: B. Prince
S. Linner
J. Helfrich
P.F.O
BT1413/12-14