

orig mine file
7/1/91 ACT 1004/1021



United States Department of the Interior
OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240



cc Board
T Mitchell
L Braxton
DRD

JUL 1 8 1991

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

RECEIVED

JUL 15 1991

DIVISION OF
OIL GAS & MINING

Dear Dr. Nielson: *Diane*

The recent action on the part of North American Equities, Ltd., informing you that the company is financially insolvent brings about a need to review the status of highwall reclamation at the Blazon Mine.

On several occasions, I rescheduled the Federal inspection following an affirmation of the Albuquerque Field Office's (AFO) finding of an inappropriate response to the TDN by the Division of Oil, Gas and Mining (DOGM), in order to accommodate the State's schedules for administrative reviews related to this matter. When DOGM did take appropriate enforcement action to order reclamation of the highwall, that action was later vacated by the Board of Oil, Gas and Mining. I subsequently requested DOGM to amend the State program and reclaim highwalls that had been approved under an exemption allowed in the State program. I fully expected that the highwall at the Blazon Mine would be reclaimed in a timely manner following my January 9, 1991, letter. However, this has not occurred, in part because agreement has not been reached on the content of a program amendment. You point out in your April 15, 1991, letter that the situation at the Blazon Mine is different from the broader issue represented by the need for an amendment to the State program. I agree. I have always expected that the Blazon Mine highwall would be reclaimed independent of the final resolution of the amendment to the State program.

In accordance with my July 25, 1990, letter and the subsequent failure of the State to resolve the conflict with the landowner regarding suitability of the site to support the approved postmining land use, as well as other issues, I have asked Mr. Robert Hagen to discuss your proposed actions to require complete reclamation of the entire permit area. To the extent that the financial condition of the corporation affects the ability to achieve complete reclamation, please inform me of the alternative enforcement measures will be pursued against corporate officials.

Sincerely,

W. Hord Tipton
W. Hord Tipton, Deputy Director
Operations and Technical Services

cc: Jack Otani
Robert Hagen

Blazon Mine Highwall - Chronology of Events

- October 16, 1989 AFO issued a TDN for failure to eliminate or reduce all highwalls during a joint bond release inspection.
- October 31, 1989 DOGM responded to the TDN.
- November 21, 1989 AFO found the TDN response to be inappropriate.
- December 1, 1989 DOGM appealed AFO's finding of an inappropriate response.
- January 1, 1990 DD-OTS decision affirmed the AFO decision and ordered a Federal inspection.
- July 17, 1990 DD-OTS visited the site at the request of DOGM.
- July 25, 1990 DD-OTS "Final Decision": (1) granted DOGM 30 days to order the permittee to perform the reclamation and resolve conflicts with the landowner (Jack Otani); and (2) informed DOGM of a Federal inspection if conditions were not met within the 30 days.
- August 13, 1990 DOGM informed DD-OTS that a State NOV was issued but expressed concern about resolving conflicts with the landowner in 30 days.
- September 6, 1990 DD-OTS delayed the order for a Federal inspection until October 15, 1990, due to rescheduling of the Board hearing.
- October 4, 1990 DOGM letter to DD-OTS requested additional delay for a Federal inspection due to further delay in the Board hearing.
- October 17, 1990 DD-OTS extended the deadline for resolving the landowner dispute until November 1, 1990.
- October 25, 1990 Board held a hearing at the request of Mr. Otani, vacated the NOV and upheld the partial bond release. (Released \$10,400 of a \$48,400 bond.)
- January 9, 1991 DD-OTS sent a "732 Letter" to DOGM, ordering amendment of the State program; informing DOGM that "Specifically, the State must require that all highwalls created or affected by a mining operation be eliminated except to the extent that they qualify for the remaining exemption or replace natural features of a similar nature." The "732 Letter"

went on the say, "Once the amendment is adopted, timely appropriate action needs to be taken to ensure the reclamation of any highwalls approved for retention under the current rule." DOGM was given 60 days to submit either amendments or a description of amendments to be proposed.

- February 2, 1991 DOGM letter to DD-OTS requested extension of 60-day deadline for submitting State program amendments because a Board Order had not yet been issued.
- February 28, 1991 Board issued the Final Order, denied Mr. Otani's objection to Phase I bond release, released \$10,400 of the \$48,400 bond, and vacated highwall NOV.
- March 4, 1991 DOGM transmitted the Board Order to DD-OTS.
- March 13, 1991 DD-OTS notified DOGM that the Board Order did not change the "732 Letter" sent on January 9, 1991, and gave DOGM until April 15, 1991, to submit amendments or a description thereof and extended the date for completion of the amendment process until August 15, 1991.
- April 10, 1990 Mr. Otani requested a Board rehearing.
- April 15, 1991 DOGM sent a description of a proposed amendment to DD-OTS to retain the exemption with modifications.
- May 6, 1991 DOGM was informed by attorneys for North American Equities, the permittee for Blazon Mine, that the company is financially insolvent.
- May 13, 1991 Board denied Mr. Otani's request for rehearing.