



United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
Suite 1200

505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102



IN REPLY REFER TO:

October 13, 1993

RECEIVED

OCT 18 1993

DIVISION OF
OIL, GAS & MINING

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:

Subject: Division of Oil, Gas, and Mining (DOGM) Response to Ten-Day Notices, (TDN) X93-020-370-003 TV 1 to Sunnyside Cogeneration Associates, ACT/007/035, and X93-020-370-004 TV 1 to Sunnyside Coal Company, ACT/007/007

The Albuquerque Field Office (AFO) received a facsimile of the above referenced TDN response on September 30, 1993, and the original on October 4, 1993. DOGM received the TDN on September 20, 1993.

AFO understands the DOGM's response to state that an enforcement action has been issued citing a failure to place in a controlled manner and/or treat acid-forming material. The remedial action for the enforcement action is to remove the material from the road and place it in an approved disposal facility. AFO has determined this response to be appropriate.

However, AFO questions the appropriateness of issuing one enforcement action for both permitted operations. The two operations are permitted by separate entities, and, as such, should have each received a separate violation. AFO questions how DOGM can administratively manage this method of issuing an enforcement action with regard to penalty assessments, history point assignment, enforcement action and assessment appeals, etc. The following are some of the questions AFO believes exist: Will both companies be assessed under the penalty system? If applied to both operators separately, how will the operator's rights of appeal be handled, etc. Please respond to AFO, for the record, how this action will be managed by DOGM with regard to the above. AFO would appreciate a response by November 1, 1993.

Mr. James W. Carter

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If you have any questions, please call Steve Rathbun at 505-766-1486.

Sincerely,



Robert H. Hagen, Director
Albuquerque Field Office