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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

November 15, 1993

Mr. Fred Finlinson, Resident Agent
Sunnyside Cogeneration Associates
Callister, Duncan and Nebeker
Kennecott Building, Suite 800
10 East South Temple
Salt Lake City, Utah 84133

Re: Request for Extension of Time, Violation N93-32-5-2, 1 of 2, Sunnyside Cogeneration Associates, Refuse and Slurry, ACT/007/035, Folder #3 and #5, Carbon County, Utah

Dear Mr. Finlinson:

In response to your letter dated October 20, 1993 requesting an extension in the abatement time of NOV N93-32-5-2, 1 of 2 to May 30, 1994, your request is hereby denied. SCA must effectively remove all acid/toxic-forming materials on the road surface, berms and the outslopes of the roads as specified in the violation.

SCA has indicated in their request for an extension of time that, due to the nature of the violation, SCA will require additional time to acquire specialized equipment (a drag line) for the removal of the refuse from the outslopes of the old coarse refuse road. Based on this and in consideration of seasonal restrictions, SCA requested that the abatement of this violation be extended to May 30, 1994.

SCA has not removed any of the acid/toxic-forming material subject to removal by the violation to date. The majority of the material can and should be removed by utilizing conventional equipment which is readily available in the region. SCA must diligently endeavor to remove as much material as possible within the prescribed abatement requirements of this violation. Should SCA show diligence in attempting to remove these materials and successfully demonstrate that additional time is required to remove any remaining material, a request for extension would be given consideration.

SCA further proposed to commit to removing only the material from the side slopes, but not from the roadway. Reclamation would include: a) Removal of all acid/toxic forming material from the slopes and placing it on the coarse refuse pile; b) Hydroseeding all slopes

less than or equal to 2(h):1(v) and broadcast seeding all slopes greater than 2(h):1(v) as outlined in Chapter Nine of the PAP. Seeding will be accomplished according to the seed mixture outlined in Appendix 3-3 and during the seeding window outlined in Chapter Nine; and c) Apply erosion control matting to slopes greater than 2(h):1(v).

The Division disagrees with the above proposed activities. All acid/toxic-forming materials must be removed inclusive of the roadway materials.

SCA has also indicated that DOGM did approve the use of coarse coal processing refuse on roads within the area previously permitted by Kaiser Steel Corporation. This issue of placing refuse material on roads was decided in the Board Hearing of May 15, 1981.

In review of the Board Order of May 15, 1981, findings were made regarding allowing the use of the refuse materials based on the "Special Coarse Refuse Use Study Report" included in the SCA plan as Appendix 6-3. In the Finding of Fact of the Board Order, paragraph 4, item (b), "the review of the study by the Division staff found that the coarse processing refuse material is nontoxic and nonacidic."

Recent sampling and analysis by Division inspectors and by OSM inspectors, analysis of the samples taken along the Old Coarse Refuse Road clearly indicated that those materials were found to be acid-forming and toxic-forming. In accordance with 30 CFR 816.150 b(6) and R645-534.120, the permittee must use nonacid- or nontoxic-forming substances in road surfacing.

Because the Division has found the material to be acid/toxic-forming, allowance for removal of only the side slope materials cannot be considered to meet the performance standards of the regulations. In finding that the material is acid/toxic-forming, the conditions and findings of the May 15, 1981 Board Order are considered irrelevant.

Additionally, the Division considers the currently approved plan inadequate in regard to the characterization and placement of acid/toxic-forming materials in accordance with the requirements of the R645 Coal Rules. The Permittee will also need to provide plans for the temporary and permanent storage and disposal of acid/toxic-forming materials within the permit area. However, plans and designs for the permanent disposal of acid/toxic-forming materials is not considered within the scope of this violation. The Division considers that temporary storage of the materials on the existing coarse refuse pile is adequate in the interim in that the characteristics of these materials are similar.

In summary, the Division finds that the violation is valid and that allowances made in the Board Order of May 15, 1981 are not relevant to this violation. The Division has extended the abatement date for the violation to November 30, 1993 for the removal of the material subject to this violation.

Sincerely

J. Randall Harden
Senior Reclamation Engineer

cc: J. Helfrich
P. G.-Littig
B. Malencik

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