

0001

*Lowell - Pam  
They (Becc - Aero) increased  
excess liability to \$7,500,000.  
I think that's a little different.*

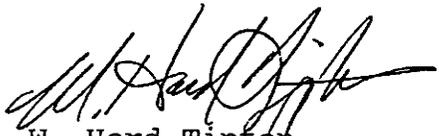
Dianne R. Nielson, Ph.D

A review of the Federal rule at 30 CFR 817.45 (counterpart to R614-301-742.110) and its preamble show that while clearly establishing performance standards which a permittee must meet when applying BTCA techniques, it does not explicitly require that a permittee demonstrate up-front in the permitting process that the performance standards will be met. Likewise, neither the hydrologic permitting requirements nor the written findings required for permit approval explicitly or implicitly require such demonstration when in the professional judgement of the regulatory authority the controls seem reasonable in relation to the standard. Thus, although an applicant must certainly provide a description of what BTCA methods will be employed and any other supporting information which may be required by the regulatory authority, a specific demonstration that applicable standards will be met is not mandatory. Accordingly, I find that a violation of the Utah program does not exist and therefore, I am reversing the determination of the AFOD.

*Company  
corrected  
received  
4/8.  
I'll write  
that.  
Is that  
okay?*

With regard to the second alleged violation of the TDL that Southern Utah Fuel Company did not provide public liability insurance in accordance with the State program, I have reviewed your response and the supporting documentation you provide to demonstrate the adequacy of SUFCO's insurance for surface coal mining and reclamation. A review of the record does not show any information that contradicts that which you have presented. Therefore I find that Utah has shown good cause for taking no further action and grant your appeal because no violation exists.

Sincerely,



W. Hord Tipton  
Deputy Director  
Operations and Technical Services

*Pam: when you work on the Beaver Creek insurance  
TDL, you might wish to review our response  
to the SUFCO TDL (91-02-246-1) #2  
Daron should have a copy. a see Vicky  
& review my note book.  
LBJ 4/8*