



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple, Suite 1210

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

Box 145801

Salt Lake City, Utah 84114-5801

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UT-
1086

July 25, 1996

Richard J. Seibel
Regional Director
Western Regional Coordinating Center
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-5733

Re: Energy Policy Act Changes in the Utah Coal Regulatory Program

Dear Mr. ~~Seibel~~ *Rick*:

Your letter of June 5, 1996 sets forth the required program amendments under the Energy Policy Act of 1992 (EPACT) and asks for the State of Utah's plan to address those requirements. This letter outlines our intended actions for you and recaps the steps taken so far to make needed changes in the Utah program under EPACT.

The issue of water replacement at underground mines in Utah has been under discussion at the state level for quite some time. Water replacement virtually touches every producing mining operation in the state. Fortunately, there have also been numerous outreach efforts made by the coal industry to allay the concerns of water users proximate to mining operations. These efforts have resulted in a number of independent agreements between water users and the coal industry. With the passage of EPACT in 1992 and the adoption of the federal regulations on March 31, 1995, the discussion has continued. In particular, the public hearing held on May 1, 1995 helped to obtain more public comment on the water replacement issue.

In addition to the OSM-initiated forum, the Division has also participated in an ongoing dialogue with Utah water users and the Utah State Legislative Interim Committee for Natural Resources and Agriculture. Water replacement is going to be one of several mining topics under consideration by the Interim Committee again during September 1996. The Committee's findings will be the basis of 1997 legislation and rulemaking to provide Utah laws and rules which provide a regulatory program that is no less effective than the federal regulatory scheme as set forth in EPACT and its implementing regulations.



Page 2
Richard J. Seibel
July 25, 1996

Utah's plans are to submit to your office these materials on the following schedule:

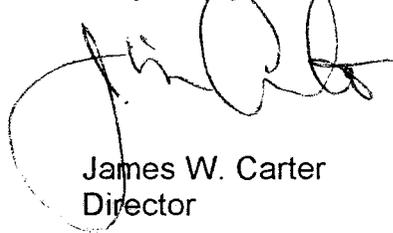
	<u>Item</u>	<u>Date</u>
1)	State law changes which implement remaining EPACT issues.	4/30/97
2)	Draft rule changes implementing EPACT.	4/30/97
3)	Final rules implementing EPACT.	6/30/97

While these changes to the Utah law and rules are set to take place in the future (in about 11 months), please recognize that the Utah Legislature will not convene in regular session until January 1997 and that the full complement of the administrative rules cannot be adopted in the absence of statutory authority.

As you know, part of the Utah law changes implementing EPACT have already been adopted and have been approved in the Utah regulatory program as UT-024-FOR. This approval occurred on 7/19/95 AT 60FR, 37002. I hope that your evaluation of the above-presented schedule recognizes this demonstration of Utah's commitment to the adoption of a strong and viable coal regulatory program under the EPACT.

Please contact me if you have any questions on this issue.

Very truly yours,



James W. Carter
Director

dr
cc: L. Braxton
R. Daniels
ron\seibel.l

I:\DFD\WP\SEB\UTAH\UT034-2.CMT

March 14, 1996

Dale Bosworth, Regional Forester
U.S. Forest Service
Federal Building
324-25th Street
Ogden, Utah 84401

Dear Mr. Bosworth:

In accordance with section 503(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Office of Surface Mining Reclamation and Enforcement solicits your comments on the enclosed Utah State program amendment for the regulation of surface coal mining and reclamation operations. The proposed amendment concerns petitions to initiate rulemaking, backfilling and grading, and highwall elimination.

Please restrict your comments to those amendment provisions being changed or directly impacted by the changes. In the amendment, strikeover denotes proposed deletions and underlining denotes proposed additions.

By April 10, 1996, please submit any comments to:

Office of Surface Mining Reclamation and Enforcement
Attn: Dennis Winterringer
1999 Broadway
Suite 3320
Denver, Colorado 80202-5733

In your response, refer to administrative record Nos. UT-1079, 1080, and 1081 and SPATS No. UT-034. If you have any questions, call Dennis Winterringer, Environmental Protection Specialist, at (303) 672-5542.

Sincerely,

James F. Fulton, Chief
Denver Field Division

Enclosure

WINTERRINGER

Winterringer
3/14/96

R645-100-500. Petition to Initiate Rulemaking.

Persons other than the Division or Board may petition to initiate rulemaking pursuant to the R641 Rules and the Utah Administrative Rulemaking Act, U.C.A. ~~63-46-8~~ 63-46a-1, et seq.

R645-301. Coal Mine Permitting: Permit Application Requirements.

553. Backfilling and Grading. Backfilling and grading design criteria will be described in the permit application. Nothing in R645-301-553 will prohibit the placement of material in road and portal pad embankments located on the downslope, so long as the material used and the embankment design comply with the applicable requirements of R645-301-500 and R645-301-700 and the material is moved and placed in a controlled manner. For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES rough backfilling and grading will follow coal removal by not more than 60 days or 1500 linear feet. The Division may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under R645-301-542.200, that additional time is necessary.

553.100. Disturbed Areas. Disturbed areas will be backfilled and graded to:

553.110 Achieve the approximate original contour (AOC), except as provided in R645-301-~~553~~.500 through R645-301-~~553~~.540 (previously mined areas (PMA's), continuously mined areas (CMA's) and areas subject to the AOC provisions), R645-301-553.600 through R645-301-553.612 (PMA's and CMA's), R645-302-270 (non-mountaintop removal on steep slopes), R645-302-220 (mountaintop removal mining), R645-301-553.700 (thin overburden) and R645-301-553.800 (thick overburden);

553.120 Eliminate all highwalls, spoil piles, and depressions, except as provided in R645-301-552.100 (small depressions); R645-301-553.500 through R645-301-~~553~~.540 (PMA's, CMA's and areas subject to approximate original contour (AOC) provisions; R645-301-553.600 through R645-301-553.612 (PMA's and CMA's); and in R645-301-553.650 through ~~R645-301-553.651~~ (highwall management under the (AOC) provisions);

Also, in response to the Director of OSM not approving previously-proposed Utah Admin. R. 645-301-553.651 (May 30, 1995, 60 FR 28040, 28046-7, finding No. 15), Utah did not promulgate the rule. The rule was proposed to read:

553.651. Applicability. Where final backfilling and grading was completed and the phase one bond was released prior to June 2, 1992, no redisturbance of a reclaimed highwall will be required. Highwalls which were approved under R645-301-553.652, the rule commonly referred to as the "AOC alternative," after December 13, 1982 are subject to the retroactive application of current rule R645-301-552.650, providing the subject highwall has not been reclaimed and phase one bond was not released prior to June 2, 1992.

The preceding letter was also sent to the following persons and organizations.

Phillip J. Nelson, State Conservationist
Soil Conservation Service
P.O. Box 11350
Salt Lake City, Utah 84147

John A. Kuzar, District Manager
U.S. Department of Labor
Mine Safety and Health Administration -
Coal, District 9
P.O. Box 25367 DFC
Denver, Colorado 80225-0367

G. William Lamb, State Director
Bureau of Land Management
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155

Ken Rait
Southern Utah Wilderness Alliance
1471 South, 1100 East
Salt Lake City, Utah 84105

Wilderness Society
7475 Dakin Street, Suite 410
Denver, Colorado 80221

Alex Joran, President
Utah Mining Association
825 Kearns Building
Salt Lake City, Utah 84101

Harold P. Quinn, Jr., Senior V.P.
National Mining Association
Coal Bldg., 1130 17th St. NW.
Washington, DC 20036

Carolyn Johnson
Citizens Coal Council
1705 S. Pearl, Suite 5
Denver, CO 80210

Robert D. Williams,
Assistant Field Supervisor
U.S. Fish and Wildlife Service
Lincoln Plaza, Suite 404
145 East 1300 South
Salt Lake City, UT 84115

Carter Reed
Manti-LaSal National Forest
599 West Price River Drive
Price, UT 84501

March 14, 1996

Max J. Evan, Director
State Historical Society
300 Rio Grande
Salt Lake City, UT 84101

Dear Mr. Evan:

In accordance with section 503(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Office of Surface Mining Reclamation and Enforcement solicits your comments on the enclosed Utah State program amendment for the regulation of surface coal mining and reclamation operations. The proposed amendment concerns petitions to initiate rulemaking, backfilling and grading, and highwall elimination.

None of the program revisions identified in the amendment pertains to cultural or historic resources. Unless comments are received to the contrary, the Office of Surface Mining Reclamation and Enforcement will proceed as if a determination of no effect is in place with respect to the consultation requirements of 36 CFR Part 800.

Please restrict your comments to those amendment provisions being changed or directly impacted by the changes. In the amendment, strikeover denotes proposed deletions and underlining denotes proposed additions.

By April 10, 1996, please submit any comments to:

Office of Surface Mining Reclamation and Enforcement
Attn: Dennis Winterringer
1999 Broadway
Suite 3320
Denver, Colorado 80202-5733

In your response, refer to administrative record Nos. UT-1079, 1080, and 1081 and SPATS No. UT-034. If you have any questions, call Dennis Winterringer, Environmental Protection Specialist, at (303) 672-5542.

Sincerely,

James F. Fulton, Chief
Denver Field Division

Enclosure

March 14, 1996

Claudia Nissley, Director
Advisory Council on
Historic Preservation
730 Simms Street, Room 401
Golden, CO 80401

Dear Ms. Nissley:

In accordance with section 503(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Office of Surface Mining Reclamation and Enforcement solicits your comments on the enclosed Utah State program amendment for the regulation of surface coal mining and reclamation operations. The proposed amendment concerns petitions to initiate rulemaking, backfilling and grading, and highwall elimination.

None of the program revisions identified in the amendment pertains to cultural or historic resources. Unless comments are received to the contrary, the Office of Surface Mining Reclamation and Enforcement will proceed as if a determination of no effect is in place with respect to the consultation requirements of 36 CFR Part 800.

Please restrict your comments to those amendment provisions being changed or directly impacted by the changes. In the amendment, strikeover denotes proposed deletions and underlining denotes proposed additions.

By April 10, 1996, please submit any comments to:

Office of Surface Mining Reclamation and Enforcement
Attn: Dennis Winterringer
1999 Broadway
Suite 3320
Denver, Colorado 80202-5733

In your response, refer to administrative record Nos. UT-1079, 1080, and 1081 and SPATS No. UT-034. If you have any questions, call Dennis Winterringer, Environmental Protection Specialist, at (303) 672-5542.

Sincerely,

James F. Fulton, Chief
Denver Field Division

Enclosure

March 14, 1996

Max H. Dodson, Director
(Attn: Robert E. Walline, Mining Waste Branch - 8WQ)
Water Management Division
US EPA, Region VIII - Suite 500
One Denver Place, 999 18th Street
Denver, CO 80202-2413

Dear Mr. Dodson:

In accordance with section 503(b) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Office of Surface Mining Reclamation and Enforcement solicits your comments on the enclosed Utah State program amendment for the regulation of surface coal mining and reclamation operations. The proposed amendment concerns petitions to initiate rulemaking, backfilling and grading, and highwall elimination.

None of the program revisions identified in the amendment pertains to water or air quality standards promulgated under the authority of the Clean Water Act or Clean Air Act. Therefore, the Office of Surface Mining Reclamation and Enforcement does not, in accordance with section 503(b)(2) of SMCRA, request your written concurrence on this amendment.

Please restrict your comments to those amendment provisions being changed or directly impacted by the changes. In the amendment, strikeover denotes proposed deletions and underlining denotes proposed additions.

By April 10, 1996, please submit any comments to:

Office of Surface Mining Reclamation and Enforcement
Attn: Dennis Winterringer
1999 Broadway
Suite 3320
Denver, Colorado 80202-5733

In your response, refer to administrative record Nos. UT-1079, 1080, and 1081 and SPATS No. UT-034. If you have any questions, call Dennis Winterringer, Environmental Protection Specialist, at (303) 672-5542.

Sincerely,

James F. Fulton, Chief
Denver Field Division

Enclosure



State of Utah
DEPARTMENT OF NATURAL RESOURCES
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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)

UT - 1081
SPATS UT-034

WESTERN SUPPORT CENTER

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OSMRE-WSC

March 11, 1996

VIA FACSIMILE (303) 672-5668

Mr. Dennis Winterringer
Western Regional Coordinating Center
Office of Surface Mining
Reclamation & Enforcement
1999 Broadway, Suite 3320
Denver, CO 80202-5733

Re: Nonsubstantive Rule Change - R645-301-553.120

Dear Dennis:

This letter is to follow up your request to update your office records on Utah Admin. R645-301-553.120, which is the rule you requested we change so that the citation refers to "R645-301-650" and not "R645-301-650 through 651". You will find attached to this letter the revised rule (including all of R645-301-553) as it now exists in the official state rule. The change, as we discussed, was handled by a nonsubstantive change in the Utah Administrative Rulemaking Process.

If your procedure allows you to process this change as a nonsubstantive program amendment, please do so; if not, please address this rule change as a program amendment. Should you need additional information, please contact me.

Very truly yours,

Ronald W. Daniels, Coordinator
of Minerals Research

dr
Attachment
I:HWallRul.1tr



Utah Highwall Rules Current to March, 1996.

R645-301-553. Backfilling and Grading. Backfilling and grading design criteria will be described in the permit application. Nothing in R645-301-553 will prohibit the placement of material in road and portal pad embankments located on the downslope, so long as the material used and the embankment design comply with the applicable requirements of R645-301-500 and R645-301-700 and the material is moved and placed in a controlled manner. For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES rough backfilling and grading will follow coal removal by not more than 60 days or 1500 linear feet. The Division may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under R645-301-542.200, that additional time is necessary.

553.100. Disturbed Areas. Disturbed areas will be backfilled and graded to:

553.110 Achieve the approximate original contour (AOC), except as provided in R645-301-553.500 through R645-301-553.540 (previously mined areas (PMA's), continuously mined areas (CMA's) and areas subject to the AOC provisions), R645-301-553.600 through R645-301-553.612 (PMA's and CMA's), R645-302-270 (non-mountaintop removal on steep slopes), R645-302-220 (mountaintop removal mining), R645-301-553.700 (thin overburden) and R645-301-553.800 (thick overburden);

553.120 Eliminate all highwalls, spoil piles, and depressions, except as provided in R645-301-552.100 (small depressions); R645-301-553.500 through R645-301-553.540 (PMA's, CMA's and areas subject to approximate original contour (AOC) provisions; R645-301-553.600 through R645-301-553.612 (PMA's and CMA's); and in R645-301-553.650 (highwall management under the (AOC) provisions);

553.130 Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and prevents slides, except as provided in R645-301-553.530;

553.140 Minimize erosion and water pollution both on and off the site; and

553.150 Support the approved post mining land use.

553.200 Spoil and Waste. Spoil and waste materials will be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

553.210 Spoil, except as provided in R645-301-537.200 (Settled and Revegetated Fills), for the purposes of UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES, and except where excess spoil is disposed of in accordance with R645-301-211, R645-301-212, R645-301-412.300, R645-301-512.210, R645-301-512.220, R645-301-514.100, R645-301-528.310, R645-301-535.100 through R645-301-535.130, R645-301-535.300 through R645-301-535.500, R645-301-536.300, R645-301-542.720, R645-301-553.240, R645-301-745.100,

R645-301-745.300, and R645-301-745.400 will be returned to the mined out surface areas (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or mined area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES).

553.220 Spoil may be placed on the area outside the mined-out surface area (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or in the mined-out area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES) in non-steep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

553.221 All vegetative and organic material will be removed from the area;

553.222 The topsoil on the area will be removed, segregated, stored, and redistributed in accordance with R645-301-232.100 through R645-301-232.600, R645-301-234, R645-301-242, and R645-301-243; and

553.223 The spoil will be backfilled and graded on the area in accordance with R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.420, R645-301-553.600, and R645-301-553.900.

553.230 Preparation of final graded surfaces will be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

553.240 The final configuration of the fill (excess spoil) will be suitable for the approved postmining land use. Terraces may be constructed on the outslope of the fill if required for stability, control of erosion, to conserve soil moisture, or to facilitate the approved postmining land use. The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent).

553.250 Refuse Piles.

553.251 The final configuration for the refuse pile will be suitable for the approved postmining land use. Terraces may be constructed on the outslope of the refuse pile if required for stability, control of erosion, conservation of soil moisture, or facilitation of the approved postmining land use. The grade of the outslope between terrace benches will not be steeper than 2h:1v (50 percent).

553.252 Following final grading of the refuse pile, the coal mine waste will be covered with a minimum of four feet of the best available, nontoxic and noncombustible material, in a manner that does not impede drainage from the underdrains. The Division may allow less than four feet of cover material based on physical and chemical analyses which show that the requirements of R645-301-244.200 and R645-301-353 through R645-301-357 are met.

553.260 Disposal of coal processing waste and underground development waste in the mined-out surface area (UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES) or mined-out area (SURFACE COAL MINING AND RECLAMATION ACTIVITIES) will be in accordance with R645-301-210, R645-301-512.230, R645-301-513.400, R645-301-514.200, R645-301-515.200, R645-301-528.322, R645-301-528.320, R645-301-536 through R645-301-536.200, R645-301-536.500, R645-301-536.900, R645-

301-542.730, R645-301-553.250, and R645-301-746.100 through R645-301-746.200, except that a long-term static safety factor of 1.3 will be achieved.

553.300 Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining will be adequately covered with nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with R645-301-731.100 through R645-301-731.522 and R645-301-731.800, to prevent sustained combustion, and to minimize adverse effects on plant growth and on the approved postmining land use.

553.400 Cut-and-fill terraces may be allowed by the Division where:

553.410 Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

553.420 Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

553.500 Previously Mined Areas (PMA's), Continuously Mined Areas (CMA's), and Areas with remaining Highwalls Subject to the Approximate Original Contour (AOC) Provisions.

553.510 Remining operations on PMA's, CMA's, or on areas with remaining highwalls subject to the AOC Provisions will comply with the requirements of R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.900, and R645-302-234, except as provided in R645-301-553.500, R645-301-553.600 and R645-301-553.650.

553.520 The backfill of all remaining highwalls will be graded to a slope which is compatible with the approved postmining land use and which provides adequate drainage and long-term stability.

553.530 Any remaining highwall will be stable and not pose a hazard to the public health and safety or to the environment. The operator will demonstrate, to the satisfaction of the Division, that the remaining highwall achieves a minimum long-term static safety factor of 1.3 and prevents slides, or provide an alternative criterion to establish that the remaining highwall is stable and does not pose a hazard to the public health and safety or to the environment; and

553.540 Spoil placed on the outslope during previous mining operations will not be disturbed if such disturbances will cause instability of the remaining spoil or otherwise increase the hazard to the public health and safety or to the environment.

553.600 Previously Mined Areas (PMA's) and Continuously Mined Areas (CMA's). For PMA's and CMA's the special compliance measures include:

553.610 The requirements of R645-301-553.110 and R645-301-553.120, addressing the elimination of highwalls, will not apply to PMA's or CMA's where the volume of all reasonably available spoil

is demonstrated in writing to the Division to be insufficient to completely backfill the reaffected or enlarged highwall. The highwall will be eliminated to the maximum extent technically practical in accordance with the following requirements:

553.611 All spoils generated by the remaining operation or CMA and any other reasonably available spoil will be used to backfill the area;

553.612 Reasonably available spoil in the immediate vicinity of the remaining operation or CMA will be included within the permit area.

553.650 Highwall Management Under the Approximate Original Contour Provisions. For situations where a permittee seeks approval for a remaining highwall under the AOC provisions, the permittee will establish, and the Division will find in writing that the remaining highwall will achieve the stability requirements of R645-301-553.530, that the remaining highwall will meet the approximate original contour criteria of R645-301-553.510 and R645-301-553.520, and that the proposal meets the following criteria:

553.650.100 The remaining highwall will not be greater in height or length than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations;

553.650.200 The remaining highwall will replace a preexisting cliff or similar natural premining feature and will resemble the structure, composition, and function of the natural cliff it replaces;

553.650.300 The remaining highwall will be modified, if necessary, as determined by the Division to restore cliff-type habitats used by the flora and fauna existing prior to mining;

553.650.400 The remaining highwall will be compatible with the post mining land use and the visual attributes of the area; and

553.650.500 The remaining highwall will be compatible with the geomorphic processes of the area.

553.700. Backfilling and Grading: Thin Overburden. For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES, this section applies only where the final thickness is less than 0.8 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness prior to removal of coal. Final thickness is the product of the overburden thickness prior to removal of coal, times the bulking factor to be determined for each permit area. The provisions of this section apply only when SURFACE COAL MINING AND RECLAMATION ACTIVITIES cannot be carried out to comply with the requirements of R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.420, R645-301-553.600, and R645-301-553.900 to achieve the approximate original contour. The operator will, at a minimum:

553.710. Use all available spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose; and

553.720. Meet the requirements of R645-301-211, R645-301-212, R645-301-412.300, R645-301-512.210, R645-301-514.100, R645-301-535.100, R645-301-535.112 through R645-301-535.130, R645-301-536.300, R645-301-542.720, R645-301-553.240, and R645-301-745.100.

553.800. Backfilling and Grading: Thick Overburden. For the purposes of SURFACE COAL MINING AND RECLAMATION ACTIVITIES, this section applies only where the final thickness is greater than 1.2 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness prior to removal of coal. Final thickness is the product of the overburden thickness prior to removal of coal, times the bulking factor to be determined for each permit area. The provisions of this section apply only when SURFACE COAL MINING AND RECLAMATION ACTIVITIES cannot be carried out to comply with the requirements of R645-301-537.200, R645-301-552 through R645-301-553.230, R645-301-553.260 through R645-301-553.420, R645-301-553.600, and R645-301-553.900 to achieve the approximate original contour. In addition the operator will, at a minimum:

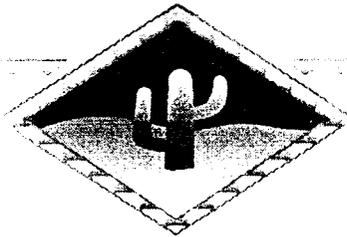
553.810. Use the spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose;

553.820. Meet the requirements of R645-301-211, R645-301-212, R645-301-412.300, R645-301-512.210, R645-301-514.100, R645-301-535.100, R645-301-535.112 through R645-301-535.130, R645-301-536.300, R645-301-542.720, R645-301-553.240, and R645-301-745.100; and

553.830. Dispose of any excess spoil in accordance with R645-301-211, R645-301-212, R645-301-412.300, R645-301-512.210, R645-301-512.220, R645-301-514.100, R645-301-528.310, R645-301-535.100 through R645-301-535.130, R645-301-535.300 through R645-301-535.500, R645-301-536.300, R645-301-542.720, R645-301-553.240, R645-301-745.100, R645-301-745.300, and R645-301-745.400.

553.900. For the purposes of UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES, regrading of settled and revegetated fills at the conclusion of coal mining and reclamation operations will not be required if the conditions of R645-301-537.200 are met;

1996
OSM / UTAH
OVERSIGHT TEAM



1996 OSM - UTAH ANNUAL EVALUATION PLAN

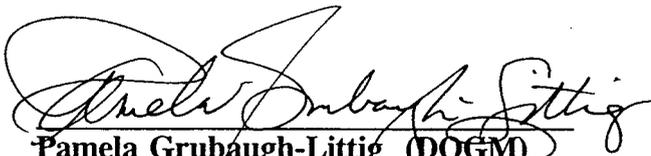
The Office of Surface Mining Reclamation and Enforcement (OSM), Denver Field Division (DFD), and the State of Utah, Division of Oil, Gas and Mining (DOGGM), jointly prepared this annual evaluation plan for the oversight of Title V implementation of the Surface Mining Control and Reclamation Act.

This OSM-Utah annual plan establishes the basic elements of oversight to be evaluated in Utah. Oversight will be directed and conducted by the OSM-Utah team, which consists of representatives of DFD responsible for oversight and DOGM personnel responsible for Title V permitting and compliance. As needed and as oversight elements warrant, other members may be added to the team on an ad hoc basis.

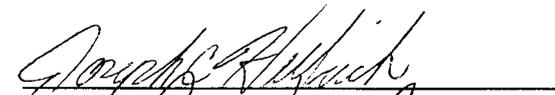
Revised OSM Directive REG - 8 served as guidance for the selection of oversight topics. The topics chosen for review are those indicated to be of importance to citizens, operators, OSM, and Utah; the chosen topics generally concern citizen participation, onsite mine reclamation, and offsite mine impacts. The team developed evaluation methods for each topic that establish the results to be measured and emphasize "on-the-ground" performance. The evaluations will consist of onsite inspections of selected minesites and reviews of mine operation and reclamation plans.

As the OSM-Utah team completes evaluations, it will select additional review topics pertinent to the Utah program

Mutually agreed upon this 20th of March, 1996 by the OSM-Utah Oversight Team.


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**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

Annual Evaluation Summary Report

for the

Regulatory Program

Administered by the State

of

Utah

for

Evaluation Year 1996

(January 1, 1996, through September 30 , 1996)

November 1996

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I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Utah Program and the effectiveness of the Utah program in meeting the applicable purposes of SMCRA as specified in section 102. This report covers the period of January 1, 1996 through September 30, 1996. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the OSM Denver Field Office.

II. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18 percent of the state of Utah, but only 4 percent is considered minable at this time. The demonstrated coal reserve base is about 6.4 billion tons, which is 1.3 percent of the national reserve base. Most of Utah's coal resources are held by the Federal government and Indian tribes.

The coal fields are divided into the Northern, Central, Eastern, and Southwestern Utah Coal Regions. The most productive region is the Central Utah Coal Region which includes the Book Cliffs, Wasatch Plateau, and Emery Coal Fields. There are vast, substantially undeveloped coal fields in the Southwestern Utah Coal Region. Within this Region, there are considerable reserves that are within the 1.7 million-acre Grand Staircase-Escalante National Monument that was designated by the President in September 1996. It is not clear whether existing Federal coal leases within the Monument can or will be developed. Development of other coal fields within the Region could be difficult because of environmental concerns resulting from the proximity of national parks and other recreation areas.

Most of the coal is bituminous and is of Cretaceous age. The BTU value is high compared to other States. Sulfur content ranges from medium to low in the more important coal fields.

Coal production has been steadily increasing since the early 1970's; production was more than 24 million tons in 1995 (see table 1). The majority of the coal production is produced by underground mining operations, which mostly mine seams exceeding 8 feet in thickness.

Currently, there are 31 permitted operations (table 2) that have thus far received permits for 119,060 acres of land (see table 2) and have disturbed 2,956 acres (table 5). Utah considers each these operations to be an inspectable unit. Of these 31 operations, 20 are active or temporarily inactive, and 11 are inactive or abandoned (table 2). Of the 19 active operations, 9 are underground mines that use the longwall mining method, 5 are underground mines that use the room-and-pillar mining method, 4 are loadout facilities, and 1 is a surface

mining operation extracting coal from an underground mine refuse pile.

Utah's coal industry has a significant impact on the local economies where mining occurs. According to the Utah Department of Employment Security, Labor Market Information Services, mines in 1994 employed a total of 2,251 persons in the three counties where most of the coal mining occurs (1,021 in Carbon County; 900 in Emery County; and 330 in Sevier County).

The climate of the Central Utah Coal Region is characterized by hot, dry summers and cold, relatively moist winters. Normal precipitation varies from 6 inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from 5 months in some valleys to only 2 1/2 months in mountainous regions. These extreme climatic conditions make reclamation a challenge.

III. Overview of the Public Participation Opportunities

A. Public participation in the oversight process

On April 9, 1996, the OSM/Utah oversight team participated in a Utah Division of Oil, Gas and Mining (DOGM) stakeholder's meeting. Twenty-seven persons attended this meeting, which served as a forum for interested public and private parties to learn about and provide input on DOGM activities for coal, oil and gas, and other mineral regulatory programs.

The team briefly described the new oversight process, which emphasizes the measurement of on-the-ground results and de-emphasizes procedural reviews. The team identified the following six topics that it intended to review this evaluation period: citizen participation, revegetation success, erosional stability, alternative sediment control and small area exemptions, highwall elimination and retention as a part of approximate original contour restoration, and surface and ground-water protection.

The team had selected the surface and ground-water protection topic for review in light of previously expressed public concerns about potential mine impacts on surface and ground-water quantity and quality. At the meeting, one attorney, who represents water user associations, indicated that he agreed with the team's decision to review the topic.

The team did not receive any oral or written comments in response to its request for comments on the oversight process, recommendations for additional review topics, and suggestions for improvements for future annual evaluation reports.

B. Public participation in the State program

The most visible and controversial issue arising from public involvement in the State program process has been the Southern Utah Wilderness Alliance's (SUWA's) petition to the Board of Oil, Gas and Mining. In its petition, SUWA appealed DOGM's October 1995

decision to approve the permit application for the Andalex Resources, Inc., Smoky Hollow Mine. The Board conducted hearings on the appeal during March through May 1996, and the permittee and petitioner submitted post-hearing briefs to the Board during August through October 1996. Following DOGM's decision to permit the mine and prior to the Board making a decision on the appeal, the President on September 18, 1996, designated a 1.7 million-acre area, which included the permit area, as the Grand Staircase-Escalante National Monument. As of this report, the Board has not made a decision on the appeal.

IV. Major Accomplishments, Issues, and Innovations

A. Accomplishments

Section 102(d) of SMCRA indicates that one of the purposes of SMCRA is to assure that mining operations are conducted in a manner that protects the environment. As the result of their evaluations on alternative sediment control and small area exemptions, and erosional stability (at phase II bond release), OSM and DOGM concluded that Utah is successfully preventing off-site impacts to land and water resources. As the result of their evaluations on revegetation (at phase II bond release), they also concluded that Utah is assuring successful on-site reclamation.

Section 102(i) indicates that one of the purposes of SMCRA is to assure that the States have appropriate procedures for public participation in the development, revision, and enforcement of regulations, standards, and reclamation plans. As the result of their evaluations on citizen involvement, OSM and DOGM concluded that DOGM is adequately following its State program procedures for citizen complaints and for involving the public in permit decisions and bond releases.

B. Issues

Citizens and water user associations have alleged that one mine has significantly impacted the hydrologic balance. OSM and DOGM evaluated surface and ground-water monitoring data for the mine to determine whether significant impacts, which were not predicted by DOGM in its cumulative hydrologic impact assessment, were occurring. They did not identify any such impacts, but they will continue to evaluate future data to determine if any long-term adverse impact trends are developing.

As the result of their joint evaluation of approximate original contour restoration, OSM and DOGM identified three issues relating to highwall elimination and retention that need to be resolved by Utah.

- Some reclamation plans have insufficient documentation of dates when highwalls were created. Without documentation as to whether highwalls were created before or after May 3, 1978, DOGM cannot determine what reclamation requirements of Utah's program apply.

- Reclamation plans for some mines are inadequate to the extent that they do not require post-May 3, 1978, highwalls to be completely eliminated to meet approximate original contour requirements.
- DOGM Directive Tech-002, Approximate Original Contour (AOC) Requirements, is inconsistent with the Utah's rules. The "Retained Highwalls" section of the directive needs to be revised to indicate that a retained highwall cannot be greater in height or length than the cliffs or cliff-like escarpments that were replaced or disturbed by the mining operation.

OSM and DOGM will continue their evaluation of this topic in the next oversight evaluation year.

As the result of their joint evaluation of citizen involvement, OSM and DOGM concluded that communication could be improved between DOGM and the Division of Water Quality on water quality problems at coal mines. DOGM will propose to the Division of Water Quality that an existing memorandum of understanding between the two agencies be revised to more specifically address communication procedures between the agencies.

C. Innovations

The Director, DOGM, continues to actively participate on the joint States and OSM Steering Committee that reviews national implementation of OSM directive REG-8, "Oversight of State Regulatory Programs," and that makes recommendations to the OSM Director for further directive revisions. The Committee's efforts ensure that the major innovations of the results-oriented oversight process, which originally became effective January 1, 1996, are carried out and improved.

DOGM recently created a Hydrology Working Group that is responsible for entering mine water quantity and quality monitoring data into a computer database. This initiative, which is being funded through an OSM memorandum of understanding, will facilitate DOGM's determinations on mine-caused hydrologic impacts.

V. Success in Achieving the Purposes of SMCRA

To further the concept of reporting end results and measuring the States' success in achieving the purposes of SMCRA, OSM and the States on a nationwide basis conducted evaluations whose purpose was to measure the number and extent of off-site impacts and the number of mined acres that have been successfully reclaimed. Individual topic reports, which provide additional details on how the following evaluations and measurements were conducted, are available in the OSM Denver Field Office.

A. Off-site impacts

Table 4 shows the number and type of off-site impacts that OSM and DOGM documented as having occurred during the evaluation period. OSM and DOGM compiled this information from 96 observations they made. These observations included 87 DOGM complete inspections, 2 DOGM partial inspections, and 7 minesite evaluations conducted jointly by OSM and DOGM. From these observations, OSM and DOGM found four incidents of off-site impacts to water resources and no off-site impacts to people, land, and man-made structures. For all four incidents, DOGM cited the operators with notices of violation. Although all four incidents concern water resources, there is no pattern of noncompliance with the same Utah water protection performance standard that suggests a programmatic deficiency in Utah's program. The low number of observed off-site impacts is an indication that Utah is effective in preventing off-site impacts to water, people, land, and man-made structures.

B. Bond releases

Table 5 shows the acreages released partially (phases I and II) or totally (phase III) from bond during the evaluation period. Of the 2,956 acres of total disturbance that had not yet received final (phase III) bond release at the end of the evaluation period, only 10 acres of this total received any type of bond release during the evaluation period. During the 15 years since OSM originally approved Utah's program, only one site has received a phase III bond release.

This lack of acreage that has received bond release is due to two factors.

- Of Utah's 31 permitted operations, 26 are underground mines (table 2). Most of these underground mining operations are long-lived, and the surface disturbances for them are relatively small and remain active during the entire life of the mining operations because of their continued use as surface facilities.
- The 10-year minimum bond liability period and extreme climatic conditions make revegetation difficult.

VI. OSM Assistance

For the 1-year grant period starting July 1, 1996, OSM funded the Utah program in the amount of \$1.39 million (table 8). Through a Federal lands cooperative agreement, OSM reimburses DOGM for permitting, inspection, and other activities that it performs for mines on Federal lands. Because most of the mines in Utah occur on Federal lands, the percentage of total program costs for which OSM provides funding is high (85 percent, table 8).

On September 13, 1996, OSM entered into a memorandum of understanding with DOGM that gives DOGM up to \$10,000 for work related to hydrologic data that will be used in the development and evaluation of cumulative hydrologic impact assessments for permitting mines, the evaluation of reclamation success for reclamation bond releases, and access by

citizen's groups seeking independent confirmation of the effects of coal mining and reclamation operations on the hydrologic balance. DOGM will use the money for entering water monitoring data into the Utah Division of Water Quality database, entering water monitoring site locations into Utah's Geographic Information System, and purchasing computer software.

VII. Oversight Topic Reviews

During the evaluation year, OSM and DOGM initiated and completed evaluations of four topics: citizen involvement, alternative sediment control and small area exemptions, erosional stability (at phase II bond release), and revegetation success (at phase II bond release). They also initiated evaluations on two other topics that will continue into the next evaluation year: surface and ground-water protection, and highwall elimination and retention as a part of approximate original contour restoration. Written reports for all of these topics are available for review in the OSM Denver Field Office.

Appendix. Tabular Summary of Core Data Characterizing the Program

The following tables present data pertinent to mining operations and State and Federal regulatory activities within Utah. They also summarize OSM funding and Utah staffing. Unless otherwise specified, the reporting period for the data contained in all tables is January 1, 1996 to September 30, 1996. Additional data used by OSM in its evaluation of Utah's performance is available for review in the evaluation files maintained by the OSM Denver Field Office.

TABLE 1

COAL PRODUCTION (Millions of short tons)			
Period	Surface mines	Underground mines	Total
1993	0.00	21.33	21.33
1994	0.03	21.03	21.06
1995	0.07	24.57	24.64

^ACoal production as reported in this table is the gross tonnage which includes coal that is sold, used or transferred as reported to OSM by each mining company on form OSM-1 line 8(a). Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by States or other sources due to varying methods of determining and reporting coal production.

TABLE 2

INSPECTABLE UNITS (As of September 30, 1996)												
Coal mines and related facilities	Number and status of permits									Permitted acreage ^A (hundreds of acres)		
	Active or temporarily inactive		Inactive		Abandoned		Totals		Insp. Unit ^D			
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	Total
STATE and PRIVATE LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	-	1	-	-	-	-	-	1	-	-	310	310
Underground mines	-	1	1	5	-	1	1	7	-	40	6226	6266
Other facilities	-	2	-	-	-	-	-	2	-	-	629	629
Subtotals	-	4	1	5	-	1	1	10	-	40	7165	7205
FEDERAL LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	-	-	-	-	-	-	-	-	-	-	-	-
Underground mines	-	14	-	4	-	-	-	18	-	-	111719	111719
Other facilities	-	2	-	-	-	-	-	2	-	-	136	136
Subtotals	-	16	-	4	-	-	-	20	-	-	111855	111855
ALL LANDS ^B												
Surface mines	-	1	-	-	-	-	-	-	-	-	-	310
Underground mines	-	15	1	9	-	1	-	-	-	-	-	117985
Other facilities	-	4	-	-	-	-	-	-	-	-	-	765
Totals	-	20	1	9	-	1	1	30	-	-	-	119060
Average number of permits per inspectable unit (excluding exploration sites) 1												
Average number of acres per inspectable unit (excluding exploration sites) 3841												
Number of exploration permits on State and private lands: 0 On Federal lands: 0 ^C												
Number of exploration notices on State and private lands: 0 On Federal lands: 0 ^C												
^P P: Initial regulatory program sites. ^{PP} PP: Permanent regulatory program sites. ^A A When a unit is located on more than one type of land, includes only the acreage located on the indicated type of land. ^B B Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. ^C C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management. ^D D Inspectable Units includes multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.												

TABLE 3

UTAH PERMITTING ACTIVITY

Type of application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres ^A	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New permits				4	1	100				4	1	100
Renewals				5	3	431				5	3	431
Incidental boundary revisions				2	1					2	1	
Revisions (exclusive of incidental boundary revisions)				64	40					64	40	
Transfers, sales and assignments of permit rights				3	1					3	1	
Small operator assistance				0	0					0	0	
Exploration permits				0	0					0	0	
Exploration notices ^B				2	0					2	0	
Totals				80	46	531				80	46	531

OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions 3

^A Includes only the number of acres of proposed surface disturbance.

^B State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.

TABLE 4

OFF-SITE IMPACTS													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting												
	Land Stability												
	Hydrology							2 ^A	1 ^A	1 ^A			
	Encroachment												
	Other												
	Total							2 ^A	1 ^A	1 ^A			
Total number of permits or minesites with observed off-site impacts: Permits <u> 2 </u> or Minesites <u> 2 </u>													
Total number of permits or mine sites evaluated: Permits <u> 31 </u> or Minesites <u> 31 </u>													
Total number of observations made to evaluate minesites or permits for off-site impacts <u> 96 </u>													

^AFor an explanation of the violations, see the OSM oversight evaluation file.

TABLE 5

ANNUAL STATE MINING AND RECLAMATION RESULTS		
Bond release phase	Applicable performance standard	Acreage released during this evaluation period
Phase I	<ul style="list-style-type: none"> ● Approximate original contour restored ● Topsoil or approved alternative replaced 	0 ^A
Phase II	<ul style="list-style-type: none"> ● Surface stability ● Establishment of vegetation 	10 ^A
Phase III	<ul style="list-style-type: none"> ● Post-mining land use/productivity restored ● Successful permanent vegetation ● Groundwater recharge, quality and quantity restored ● Surface water quality and quantity restored 	0 ^A
	Total number of disturbed acres at end of last review period (December 31, 1995) ^B	2823.47
	Total number of acres disturbed during this evaluation year	2956.37
	Number of acres disturbed during this evaluation year that are considered remaining	0
<p>^A The acreage receiving bond release was low owing to (1) most of the operations being long-lived underground mines with relatively small surface disturbances that remain active during the entire life of the mining operations and (2) a 10-year minimum bond liability period and extreme climatic conditions that make revegetation difficult.</p> <p>^B Disturbed acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).</p>		

TABLE 6

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of January 1, 1996 ^A	1		
Bonds forfeited during EY 1996	0		
Forfeited bonds collected as January 1, 1996 ^A	1		
Forfeited bonds collected during EY 1996			
Forfeiture sites reclaimed during EY 1996	0	B	
Forfeiture sites repermited during EY 1996	0		
Forfeiture sites unreclaimed as of September 30, 1996	1		
Excess reclamation costs recovered from permittee	0		
Excess forfeiture proceeds returned to permittee	0		
^A Includes data only for those forfeiture sites not fully reclaimed as of this date. ^B Cost of reclamation, excluding general administrative expenses.			

TABLE 7

UTAH STAFFING (Full-time equivalents at end of evaluation year)	
Function	EY 1996
Regulatory Program	
Permit review	13.0
Inspection	7.0
Other (administrative, fiscal, personnel, etc.)	4.0
Total	24.0

TABLE 8

FUNDS GRANTED TO UTAH BY OSM (Millions of dollars)		
Type of grant	Federal funds awarded	Federal funding as a percentage of total program costs
Administration and enforcement	1.39	85.0
Small operator assistance	0.00	0.0
Totals	1.39	

Summary of Table 4 Off Site Impacts

Four (4) off-site impacts were identified during the evaluation year from January 1, 1996 to September 30, 1996. All four were in the "water" category:

Minor: (1)

White Oak, N96-7-1-1, issued March 28, 1996 for failure to maintain sediment control structures at Sediment Pond 003A, northwest corner of the pond at White Oak Loadout, where animals or other condition created piping through the embankment. The inspector report stated that "the outlet was one opening where approximately 5 gallons per minute was flowing to the roadside ditch, through the road culvert, under the road and into a grassy area eventually reaching Mud Creek."

Moderate: (2)

White Oak, N96-7-2-3, 3 of 3, issued May 3, 1996 for failure to maintain drainage controls as described in the approved plan to minimize erosion to the extent possible. This violation occurred at the mine haul road berm culvert inlet and road downslope adjacent to turnoff from Eccles Canyon Road where snowplowing activity had removed the berm causing water to bypass road culverts thereby eroding the downslope ditches and diversions and culverts at the #1 Mine, #2 Loadout and along the mine haul road.

The uncontrolled runoff flowing downhill from the two culverts eroded the road downslope flushing sediment into Eccles Creek.

Willow Creek, N96-41-1-1, issued June 25, 1996 for failure to conduct coal mining and reclamation operations to minimize disturbance to the hydrologic balance within the permit and adjacent areas and to prevent material damage to the hydrologic balance outside the permit area. Failure to use the best technology currently available to prevent additional contributions of suspended solids to streamflow outside the permit area and otherwise prevent water pollution. This violation occurred at the Willow Creek stream crossing. The inspector report stated that, "the damage was in a perennial stream that flows through the permit area then exits the permit area and flows into the Price River.

Major: (1)

Willow Creek, N96-44-1-1, issued August 6, 1996 for failure to conduct mining and reclamation operations to minimize disturbance to the hydrologic balance. This violation occurred in that portion of Willow Creek that ceased flowing from 450 feet downstream from the beginning of the lower stream realignment to the confluence with the Price River. The loss of water was the result of extremely low flow in combination with the construction methods required under the U.S. Army Corps of Engineers permit. The operator worked diligently to abate the violation. Diminished flows created a problem, however, the stream bottom was sealed and the violation abated prior to the abatement date.