

WRCC Procedures
Post-Act Civil Penalty-funded Reclamation Program
[30 CFR 845.21 and Directive TSR-12]

Written: 02/22/96
Revised: 12/12/97

Step 1: state sends request for funding to Field Office

The request must address the need for and justification for the request, including:

- proof of post-Act coal mining (i.e., starting or continuing mining after 8/3/77), including any permit number, MSHA number, etc;
- a statement that any bond must have been released, or forfeited and expended; if forfeited but not expended, it must be applied to necessary reclamation (written commitment required); the bond amount must be reported;
- statement of litigation status;
- statement of how the site meets the criteria of Reclamation Priority 1 or 2, or evidence that the unreclaimed area constitutes a danger to the environment or the public health and safety, and justification for request; include description of impacts on the environment and/or public health and safety
Note: this statement should be as detailed and specific as possible regarding extent of hazard (e.g. size of highwalls) and extent of public exposure, particularly distance from frequented roads or from residences or recreational sites; if an environmental danger, statement should detail the danger, such as tons of sediment lost, acid or metal loading of streams, etc.;
- reclamation cost estimate (include value of any remaining coal resource as possible offset); and
- the amount of funding requested.

Step 2: Field Office reviews request, forwards to OSM/HQ

The FO reviews the information in the funding request, obtains any necessary further information from the state. The FO checks the accuracy of the information and priority determination, and forwards the request to OSM/HQ with the FO's recommendation.

Request is forwarded to OSM's Deputy Director (DD).

Step 3: Review of proposal by Deputy Director, Decision on funding

The DD reviews the project request and takes into consideration the civil penalty funds available and other proposed projects. Based on these factors, the DD will decide to either agree to or deny funding. The DD's decision is sent back to the FO.

For FY's 1996 and 1997, this process was accomplished by:

- compiling the info on all proposed projects (see Step No. 1 above) into one document, with Priority rating and proposed costs;
- distributing the compiled info to the AML section of each regional office and Headquarters;
- in a conference call with HQ and all three regions, discuss the projects, particularly the degree of public hazard and requested funding; and
- at the end of the call, based on the funds available and degree of public hazard, the participants decide which proposed projects to fund. There has been an informal agreement that not all of the funded projects should be in the Appalachian region.

Step 4: FO implements DD decision

If the DD decides not to fund the project, the FO will transmit that decision to the state.

If the DD decides to fund the project, or fund it at a reduced level, the state will apply for, and the FO execute, a cooperative agreement or grant, in accordance with the Federal Assistance Manual (FAM).

Step 5: Project implementation/closeout

Reporting on and monitoring of the project will proceed in accordance with the requirements of the FAM and as specified in the cooperative agreement or grant. Upon project completion, state will record project accomplishment information in AMLIS in accordance with Directive AML-1.

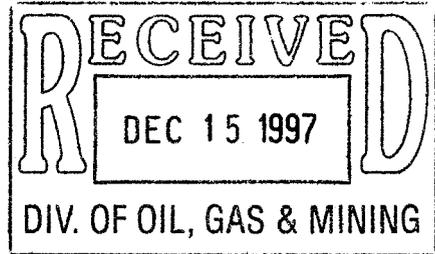


IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733



December 12, 1997

Lowell P. Braxton, Acting Director
Utah Division of Oil, Gas and Mining
1594 West North Temple
Box 145801
Salt Lake City, Utah 84114-5801

Dear Lowell:

I am enclosing information on applying for OSM's Civil Penalty Post-SMCRA reclamation program. Under this program, some OSM civil penalty funds may be available to regulatory authorities to assist in reclaiming bond forfeiture sites.

Each year OSM accepts proposals from State and Federal Program regulatory authorities nationwide, and funds the highest priority sites based on the amount of civil penalty monies available.

The purpose of this letter is to provide an opportunity for you to submit any projects you may have in mind. We expect that this year, as always, funding requests will far exceed the available funding, so only a small portion of the proposals will be funded.

OSM Headquarters has not yet set a deadline for submissions for FY 1998 funding; however, we are already behind schedule. Once the deadline is set, there will probably be very little time to prepare submissions.

If you have any questions about this program or preparing funding requests, please contact Randy Pair of my staff, at (303) 844-1446.

Sincerely,

James F. Fulton, Chief
Denver Field Division

→ Orig OSM Admin
cc M Wright date

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

Annual Evaluation Summary Report

for the

Regulatory Program

Administered by the State

of

Utah

for

Evaluation Year 1997

(October 1, 1996, through September 30, 1997)

November 1997

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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 October 1, 1996, through September 30, 1997. 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 Division 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 most other western 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 27 million tons in 1996 (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 30 permitted operations (table 2) that have thus far disturbed 2,605 acres (table 2). Utah considers each these operations to be an inspectable unit. Of these 30 operations, 27 are active or temporarily inactive, 3 are inactive, and none are abandoned (table 2). Of the 25 active operations, 9 are underground mines that use the longwall mining method, 11 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, mining in 1996 employed a total of 2,224 persons in the three counties where most of the coal mining occurs (1,072 in Carbon County; 853 in Emery County; and 299 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 in the Oversight Process and Utah Program

A. Oversight Process

On April 17, 1997, the OSM/Utah oversight team participated in a Utah Division of Oil, Gas and Mining (DOGGM) stakeholder's meeting. Thirty-eight 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 oversight process, which emphasizes the measurement of on-the-ground results and de-emphasizes procedural reviews. The team identified the following four topics that it intended to review this evaluation period: public participation, highwall elimination and retention as a part of approximate original contour restoration, surface and ground water protection, and permitting of coal mine access and haul roads.

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, four persons requested copies of the 1996 annual evaluation report. 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. Utah Program

In connection with the 20th anniversary observance of the enactment of SMCRA, OSM established a Citizens Award program to recognize citizens who had been instrumental in

safeguarding the coalfield environment. DOGM nominated the Emery County Public Lands Council, which was created as a forum to discuss issues relating to mining activity and its impact on the water supply in the Huntington Canyon area in the western portion of Utah's Wasatch Plateau coalfield. DOGM had met with the Council on several occasions to discuss proposed revisions to the State statute. Through these meetings, DOGM received comments on its proposals and was able to reach consensus on an important requirement for mine operators to replace State-appropriated waters affected by coal mining operations. The Utah Legislature enacted this law revision, and it went into effect on May 5, 1997. Owing to "the Council's importance as a venue for citizens to work in partnership with federal and State agencies", OSM recognized the Emery County Public Lands Council with a Grassroots Organization award.

IV. Major Accomplishments, Issues, and Innovations

A. Accomplishments

1. Public Participation

As the result of their evaluations on public participation, OSM and DOGM concluded that DOGM is following its State program procedures for notifying the public of proposed bond releases and permits (new permits, significant permit revisions, permit renewals, and permit transfers).

2. Highwall Elimination and Retention As a Part of Approximate Original Contour (AOC) Restoration

During the last evaluation period, OSM and DOGM found that Directive Tech-002, "Approximate Original Contour (AOC) Requirements", was not consistent with Utah's rule at R645-301-553.650.100 because it did not indicate that a highwall retained under the AOC alternative cannot be greater in length or height than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations. During this evaluation period, DOGM revised the directive to add the length criterion.

During the last evaluation period, OSM and DOGM found that not all permits included maps of sufficient detail to show when the highwalls were created. Without this information, DOGM could not determine which highwalls must be completely eliminated (post-May 3, 1978) and which must only be eliminated to the maximum extent technically practical using all reasonably available spoil in the permit area (pre-May 3, 1978). During this evaluation period, DOGM sent a survey to mine operators asking for information on highwall creation dates. Following receipt of the completed surveys, DOGM expended considerable effort in verifying the information and preparing a detailed inventory for the 97 highwalls in the State. The inventory serves as a useful compendium of reclamation requirements and plans for individual highwalls in the State.

In consideration of the steep slopes, natural benches, and cliffs that exist in the coal mining regions of Utah, Utah originally developed, and OSM approved in 1982, a carefully limited exception to highwall elimination. Under the "AOC alternative" provision of Utah's program, a highwall need not be eliminated during reclamation if the permittee establishes and DOGM finds in writing that, among other things, the highwall replaces a pre-existing natural cliff or similar natural premining feature and resembles the structure, composition, and function of the natural cliff that it replaces. In compiling the highwalls inventory, OSM and DOGM found that, in the 15-year period since 1982, Utah has not approved any permits allowing the retention of highwalls under the AOC alternative. Therefore, OSM and DOGM project that the AOC alternative will not have much, if any, application in the State.

B. Issues

During the next evaluation period, OSM and DOGM members of the oversight team will continue to monitor DOGM's progress in resolving the following issues.

1. Public Participation

As the result of their review of citizen complaints during the last evaluation period, OSM and DOGM concluded that communication on water quality problems at coal mines could be improved between DOGM and the Utah Department of Environmental Quality (DEQ), the Utah Pollutant Discharge Elimination System permitting authority. During this evaluation period, OSM and DOGM further concluded that the October 16, 1990, memorandum of understanding (MOU) between DOGM and DEQ does not promote effective enforcement of water quality standards at coal mines because:

- the MOU lacks a provision that requires DEQ to inform DOGM when DEQ becomes aware of a violation of the Utah Pollutant Discharge Elimination System permit or of the water quality standards at 40 CFR Part 434, and
- although DOGM continues to cite water quality violations, the MOU lacks specificity as to which agency is responsible for issuing violation notices when reports and inspections justify such actions.

OSM and DOGM members of the oversight team recommended revisions to the MOU and forwarded them to DOGM management for consideration.

2. Highwall Elimination and Retention As a Part of AOC Restoration

In the highwalls inventory, OSM and DOGM identified deficiencies in highwall reclamation plans in about one-fifth of the mine permits. In order to resolve these deficiencies, DOGM will have to require the permittees to revise their permit reclamation plans. As a first step, the team recommends that early in the 1998 oversight evaluation year DOGM prepare a prioritized

schedule for requiring the permittees to revise their permits.

As the result of field evaluations conducted last evaluation year, OSM and DOGM identified one post-May 3, 1978, highwall that will not be completely eliminated in the reclamation process as required by the Utah regulatory program. OSM and DOGM agreed that (1) , if the highwall were completely backfilled, it would not be stable and (2) the highwall should not have been permitted for construction. During this evaluation year, the team also identified cut-slopes on two mines that may not be able to be completely eliminated. OSM and DOGM team members raised these issues to OSM and DOGM managers for possible administrative action (e.g., issuance of violation notices).

OSM and DOGM evaluated the highwall elimination and retention topic under the primary oversight objective for determining whether minesite reclamation is successful. OSM and DOGM found that minesite reclamation on a portion of one mine, and possibly two others, will not be entirely successful because highwalls and cut-slopes created there after May 3, 1978, will not be completely eliminated. Also, approximately one-fifth of the permits have reclamation plan deficiencies concerning highwall reclamation. Until the permittees revise their permits to resolve these deficiencies, OSM and DOGM will not be able to fully assess the degree of success of highwall reclamation in the State.

3. Surface and Ground Water Protection

During the last two evaluation periods, OSM and DOGM analyzed water monitoring data for one mine in response to allegations by citizens and water user associations that the mine is adversely impacting the hydrologic balance outside of the permit area. OSM and DOGM concluded that flow in one spring has significantly decreased, but they have not yet concluded what impact the mine is having on the spring. OSM and DOGM will continue to analyze monitoring data to determine whether the reduced spring flow is the result of mining, reduced precipitation, an earthquake, or a combination of these or other factors.

In the existing CHIA for the mine and in some of the other pre-1993 CHIA's for other mines, DOGM did not establish criteria to measure material damage to the hydrologic balance outside of the permit area. The OSM and DOGM members of the oversight team recommended that, as the permits for these existing mines are revised, or when the monitoring data for these mines change significantly, or when new permits within the CHIA are developed, DOGM update these CHIA's to include material damage concepts like those included in the post-1992 CHIA's.

OSM and DOGM evaluated the surface and ground water protection topic under the primary oversight objective for determining whether offsite impacts were being prevented. OSM and DOGM did not find any significant offsite impacts to surface or ground water that were occurring as a result of the mine, but they had not yet determined whether significantly decreased flows in one spring were caused by the mine. Because this determination had not

been made, OSM and DOGM could not conclude that the mine was not causing significant impacts to offsite water resources.

4. Permitting of Coal Mine Access and Haul Roads.

On July 3, 1995, DOGM sent to OSM a letter which included policy statements on the permitting of public roads. OSM agreed with the policy clarification and terminated a proceeding under 30 CFR Part 733 to substitute Federal enforcement for that part of the State program concerning the permitting of coal mine access and haul roads.

OSM and DOGM reviewed a permit that DOGM had issued during the evaluation period to determine whether DOGM was implementing its July 3, 1995, permitting policy. OSM and DOGM concluded that DOGM did not comply with the policy because, in deciding not to require a road to be permitted, DOGM did not make written findings as to whether:

- the road was maintained with public funds or in exchange for taxes or fees,
- the road would be a primary coal haulage road constructed or reconstructed in a manner similar to other public roads of the same classification, and
- impacts from mining on the road would be significant under Utah's definitions for "affected area" and "surface coal mining operations".

The OSM and DOGM members of the oversight team recommended that DOGM reassess the permit by making written findings on the above-described criteria.

OSM and DOGM evaluated the roads permitting topic under the primary oversight objective for determining whether offsite impacts were being prevented. In the absence of written permit findings, OSM and DOGM could not determine whether DOGM was regulating road impacts as intended by the approved Utah regulatory program.

B. Innovations

For the second year, persons from OSM and DOGM continued to work as a self-directed team to evaluate and assist DOGM in the administration, implementation, and maintenance of the approved Utah regulatory program. During the evaluation period, the team consisted of six program and permitting specialists (three each from OSM and DOGM) and five scientists (two from OSM and three from DOGM). The team continued to make progress in working together toward a common goal of improving the Utah regulatory program.

The Director, DOGM, and Chief, Denver Field Division, continued 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 joined with other interested parties to form the Hydrology Outreach Committee. The Committee, which meets frequently, describes itself as "a consortium of local, State and Federal government, consultants and industry representatives examining the interrelationships of water and mining, and promoting cooperation among water users."

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 offsite 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 Division office.

A. Offsite Impacts

Table 4 shows the number and type of offsite impacts that OSM and DOGM documented as having occurred during the evaluation period.

OSM and DOGM compiled this information from 320 observations they made. These observations included 8 OSM and DOGM joint, complete inspections; 116 DOGM complete inspections; and 196 DOGM partial inspections. As explained in section IV.B.4 above, OSM and DOGM also jointly conducted a minesite evaluation to assess whether offsite impacts had occurred at one minesite as the result of DOGM not permitting a road. Because the results of this evaluation were inconclusive, OSM and DOGM did not count this evaluation as an offsite impact observation.

From these offsite impact observations, OSM and DOGM found five incidents of offsite impacts to water resources and no offsite impacts to people, land, and man-made structures. For all five incidents, DOGM cited the operators with notices of violation. Although all five 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 offsite impacts is an indication that Utah is effective in preventing offsite impacts to water, people, land, and man-made structures.

B. Bond Releases

Table 5 shows the acreage released partially (phases I and II) or totally (phase III) from bond during the evaluation period. Of the 2,605 acres of total disturbance that had not yet received

final (phase III) bond release at the end of the evaluation period, only 71 acres of this total received any type of bond release during the evaluation period. During the 16 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 30 permitted operations, 24 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, 1997, OSM funded the Utah program in the amount of \$1.40 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 provided funding was high (82.7 percent, table 8).

On September 13, 1996, OSM entered into a memorandum of understanding with DOGM that gave DOGM \$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 used 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.

On August 19, 1997, OSM entered into a memorandum of agreement with DOGM that gave DOGM \$6960 to buy computer hardware and software that will be used to set up an electronic permitting system. This system will allow persons to use the Internet to electronically retrieve formats for permit applications, to submit permit applications, and to access permit application and permit information such as DOGM technical analyses, probable hydrologic consequences analyses, and cumulative hydrologic impact assessments.

Under its Technical Training Program and Technology Transfer Program, OSM offers free of charge a variety of courses, workshops, and forums to State and Tribal employees. During the evaluation period, six DOGM employees attended the following Technical Training Program courses: Evidence Preparation and Testimony, Bonding Workshop - Cost Estimation, Instructor Training Course, Erosion and Sediment Control, and Wetlands Awareness. During

the evaluation period, six DOGM employees attended the following Technology Transfer Program workshop and forum: Advanced Applied Statistics Workshop and Computer Applications for Electronic Permitting Interactive Forum.

VII. Oversight Topic Reviews

In the time period from October 1, 1996, through September 30, 1997, OSM and DOGM evaluated the following topics: public participation, highwall elimination and retention as a part of AOC restoration, surface and ground water protection, and permitting of coal mine access and haul roads. Written reports for all of these topics are available for review in the OSM Denver Field Division office. OSM's and DOGM's analyses of all of these topics will continue into the next evaluation period.

Appendix. Tabular Summary of Core Data Characterizing the Utah Program

The following tables present data pertinent to mining operations and State and Federal regulatory activities within Utah. They also summarize Utah staffing and OSM funding. Unless otherwise specified, the reporting period for the data contained in all tables is October 1, 1996, to September 30, 1997.

TABLE 1

COAL PRODUCTION (Millions of short tons)			
Period	Surface mines	Underground mines	Total
1994	0.03	21.03	21.06
1995	0.07	24.57	24.64
1996	0.03	27.32	27.35

^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, 1997)												
Coal mines and related facilities	Number and status of permits									Disturbed acreage^A		
	Active or temporarily inactive		Inactive		Abandoned		Totals		Insp. Unit^D	IP	PP	Total
	IP	PP	Phase II bond release		IP	PP	IP	PP				
			IP	PP								
STATE and PRIVATE LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	-	1	-	-	-	-	-	1	-	-	202	202
Underground mines	1	2	-	2	-	-	1	4	-	40	35	75
Other facilities	-	2	-	-	-	-	-	2	-	-	516	516
Subtotals	1	5		2			1	7		40	753	793
FEDERAL LANDS REGULATORY AUTHORITY: UTAH												
Surface mines	-	-	-	-	-	-	-	-	-	-	-	-
Underground mines	-	19	-	1	-	-	-	20	-	-	1731	1731
Other facilities	-	2	-	-	-	-	-	2	-	-	81	81
Subtotals		21		1				22			1812	1812
ALL LANDS^B												
Surface mines	-	1	-	-	-	-	-	1	-	-	202	202
Underground mines	1	21	-	3	-	-	1	24	-	40	1766	1806
Other facilities	-	4	-	-	-	-	-	4	-	-	597	597
Totals	1	26		3			1	29		40	2565	2605
Average number of permits per inspectable unit (excluding exploration sites) 1												
Average number of acres per inspectable unit (excluding exploration sites) 87												
Number of exploration permits on State and private lands: <u> 2 </u> On Federal lands: <u> 0 </u> ^C												
Number of exploration notices on State and private lands: <u> 0 </u> On Federal lands: <u> 6 </u> ^C												
^E P: Initial regulatory program sites. ^F P: Permanent regulatory program sites. ^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 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 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 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				0	2	142				0	2	142
Renewals				5	8	689				5	8	689
Incidental boundary revisions				2	2	346				2	2	346
Amendments				2	3	0 ^B				2	3	0 ^B
Revisions (exclusive of incidental boundary revisions)				102	78					102	78	
Transfers, sales and assignments of permit rights				7	7					7	7	
Small operator assistance				0	0					0	0	
Exploration permits				2	2					2	2	
Exploration notices ^C				6	0					6	0	
Totals				126	102	1177				126	102	1177

Number of midterm permit reviews completed that are not reported as revisions 6.

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

^B Amendments (significant permit revisions) added 3245 acres to permitted acreage but none to disturbed surface acreage (i.e., all proposed disturbance was underground).

^C 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							4 ^A	1				
	Encroachment												
	Other												
	Total								4 ^A	1			
Total number of permits or minesites with observed off-site impacts: Permits <u>4</u> or Minesites <u>4</u>													
Total number of permits or mine sites evaluated: Permits <u>32</u> or Minesites <u>32</u>													
Total number of observations made to evaluate minesites or permits for off-site impacts <u>320</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 	71 ^A
Phase II	<ul style="list-style-type: none"> ● Surface stability ● Establishment of vegetation 	0 ^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 (September 30, 1996) ^B	2874
	Total number of acres disturbed during this evaluation year	10
	Number of acres disturbed during this evaluation year that are considered re-mining	0.00

^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.

^B Disturbed acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).

TABLE 6

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of September 30, 1996 ^A	1		
Bonds forfeited during EY 1997	1		
Forfeited bonds collected as September 30, 1996 ^A	1	38,000	1.5 ^B
Forfeited bonds collected during EY 1997	1	1,850,000	287.4 ^B
Forfeiture sites reclaimed during EY 1997	0	C	
Forfeiture sites repermited during EY 1997	0		
Forfeiture sites unreclaimed as of September 30, 1997	2		
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 Disturbed acres. ^C Cost of reclamation, excluding general administrative expenses.			

TABLE 7

UTAH STAFFING (Full-time equivalents at end of evaluation year)	
Function	EY 1997
Regulatory Program	
Permit review	13.0
Inspection	7.0
Program administration	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	1.40	82.7
Small operator assistance	0.00	0.0
Totals	1.40	

1996-1997
OSM / UTAH
OVERSIGHT TEAM

12/8

Joni -
This is the
oversight report.
It will also be on
the home page. Please
ITX. Pam File.



File - OSM

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

Annual Evaluation Summary Report

for the

Regulatory Program

Administered by the State

of

Utah

for

Evaluation Year 1997

(October 1, 1996, through September 30, 1997)

November 1997

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Appendix. Tabular Summary of Core Data Characterizing the Program

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 October 1, 1996, through September 30, 1997. 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 Division 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 most other western 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 27 million tons in 1996 (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 30 permitted operations (table 2) that have thus far disturbed 2,605 acres (table 2). Utah considers each these operations to be an inspectable unit. Of these 30 operations, 27 are active or temporarily inactive, 3 are inactive, and none are abandoned (table 2). Of the 25 active operations, 9 are underground mines that use the longwall mining method, 11 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, mining in 1996 employed a total of 2,224 persons in the three counties where most of the coal mining occurs (1,072 in Carbon County; 853 in Emery County; and 299 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 in the Oversight Process and Utah Program

A. Oversight Process

On April 17, 1997, the OSM/Utah oversight team participated in a Utah Division of Oil, Gas and Mining (DOG M) stakeholder's meeting. Thirty-eight 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 oversight process, which emphasizes the measurement of on-the-ground results and de-emphasizes procedural reviews. The team identified the following four topics that it intended to review this evaluation period: public participation, highwall elimination and retention as a part of approximate original contour restoration, surface and ground water protection, and permitting of coal mine access and haul roads.

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, four persons requested copies of the 1996 annual evaluation report. 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. Utah Program

In connection with the 20th anniversary observance of the enactment of SMCRA, OSM established a Citizens Award program to recognize citizens who had been instrumental in

safeguarding the coalfield environment. DOGM nominated the Emery County Public Lands Council, which was created as a forum to discuss issues relating to mining activity and its impact on the water supply in the Huntington Canyon area in the western portion of Utah's Wasatch Plateau coalfield. DOGM had met with the Council on several occasions to discuss proposed revisions to the State statute. Through these meetings, DOGM received comments on its proposals and was able to reach consensus on an important requirement for mine operators to replace State-appropriated waters affected by coal mining operations. The Utah Legislature enacted this law revision, and it went into effect on May 5, 1997. Owing to "the Council's importance as a venue for citizens to work in partnership with federal and State agencies", OSM recognized the Emery County Public Lands Council with a Grassroots Organization award.

IV. Major Accomplishments, Issues, and Innovations

A. Accomplishments

1. Public Participation

As the result of their evaluations on public participation, OSM and DOGM concluded that DOGM is following its State program procedures for notifying the public of proposed bond releases and permits (new permits, significant permit revisions, permit renewals, and permit transfers).

2. Highwall Elimination and Retention As a Part of Approximate Original Contour (AOC) Restoration

During the last evaluation period, OSM and DOGM found that Directive Tech-002, "Approximate Original Contour (AOC) Requirements", was not consistent with Utah's rule at R645-301-553.650.100 because it did not indicate that a highwall retained under the AOC alternative cannot be greater in length or height than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations. During this evaluation period, DOGM revised the directive to add the length criterion.

During the last evaluation period, OSM and DOGM found that not all permits included maps of sufficient detail to show when the highwalls were created. Without this information, DOGM could not determine which highwalls must be completely eliminated (post-May 3, 1978) and which must only be eliminated to the maximum extent technically practical using all reasonably available spoil in the permit area (pre-May 3, 1978). During this evaluation period, DOGM sent a survey to mine operators asking for information on highwall creation dates. Following receipt of the completed surveys, DOGM expended considerable effort in verifying the information and preparing a detailed inventory for the 97 highwalls in the State. The inventory serves as a useful compendium of reclamation requirements and plans for individual highwalls in the State.

In consideration of the steep slopes, natural benches, and cliffs that exist in the coal mining regions of Utah, Utah originally developed, and OSM approved in 1982, a carefully limited exception to highwall elimination. Under the "AOC alternative" provision of Utah's program, a highwall need not be eliminated during reclamation if the permittee establishes and DOGM finds in writing that, among other things, the highwall replaces a pre-existing natural cliff or similar natural premining feature and resembles the structure, composition, and function of the natural cliff that it replaces. In compiling the highwalls inventory, OSM and DOGM found that, in the 15-year period since 1982, Utah has not approved any permits allowing the retention of highwalls under the AOC alternative. Therefore, OSM and DOGM project that the AOC alternative will not have much, if any, application in the State.

B. Issues

During the next evaluation period, OSM and DOGM members of the oversight team will continue to monitor DOGM's progress in resolving the following issues.

1. Public Participation

As the result of their review of citizen complaints during the last evaluation period, OSM and DOGM concluded that communication on water quality problems at coal mines could be improved between DOGM and the Utah Department of Environmental Quality (DEQ), the Utah Pollutant Discharge Elimination System permitting authority. During this evaluation period, OSM and DOGM further concluded that the October 16, 1990, memorandum of understanding (MOU) between DOGM and DEQ does not promote effective enforcement of water quality standards at coal mines because it:

- lacks a provision that requires DEQ to inform DOGM when DEQ becomes aware of a violation of the Utah Pollutant Discharge Elimination System permit or of the water quality standards at 40 CFR Part 434, and
- lacks specificity as to which agency is responsible for issuing a violation notice when reports and inspections justify such an action.

OSM and DOGM members of the oversight team recommended revisions to the MOU and forwarded them to DOGM management for consideration.

2. Highwall Elimination and Retention As a Part of AOC Restoration

In the highwalls inventory, OSM and DOGM identified deficiencies in highwall reclamation plans in about one-fifth of the mine permits. In order to resolve these deficiencies, DOGM will have to require the permittees to revise their permit reclamation plans. As a first step, the team recommends that early in the 1998 oversight evaluation year DOGM prepare a prioritized schedule for requiring the permittees to revise their permits.

As the result of field evaluations conducted last evaluation year, OSM and DOGM identified one post-May 3, 1978, highwall that will not be completely eliminated in the reclamation process as required by the Utah regulatory program. OSM and DOGM agreed that (1) , if the highwall were completely backfilled, it would not be stable and (2) the highwall should not have been permitted for construction. During this evaluation year, the team also identified cut-slopes on two mines that may not be able to be completely eliminated. OSM and DOGM team members raised these issues to OSM and DOGM managers for possible administrative action (e.g., issuance of violation notices).

OSM and DOGM evaluated the highwall elimination and retention topic under the primary oversight objective for determining whether minesite reclamation is successful. OSM and DOGM found that minesite reclamation on a portion of one mine, and possibly two others, will not be entirely successful because highwalls and cut-slopes created there after May 3, 1978, will not be completely eliminated. Also, approximately one-fifth of the permits have reclamation plan deficiencies concerning highwall reclamation. Until the permittees revise their permits to resolve these deficiencies, OSM and DOGM will not be able to fully assess the degree of success of highwall reclamation in the State.

3. Surface and Ground Water Protection

During the last two evaluation periods, OSM and DOGM analyzed water monitoring data for one mine in response to allegations by citizens and water user associations that the mine is adversely impacting the hydrologic balance outside of the permit area. OSM and DOGM concluded that flow in one spring has significantly decreased, but they have not yet concluded what impact the mine is having on the spring. OSM and DOGM will continue to analyze monitoring data to determine whether the reduced spring flow is the result of mining, reduced precipitation, an earthquake, or a combination of these or other factors.

In the existing CHIA for the mine and in some of the older CHIA's for other mines, DOGM did not specify criteria that, if exceeded, would constitute material damage to the hydrologic balance outside of the permit area. The OSM and DOGM members of the oversight team recommended that DOGM develop:

- programmatic material damage criteria that would apply State-wide but that would also be subject to some site-specific alteration to reflect conditions at individual mines and
- a schedule to update old CHIA's to include material damage criteria.

OSM and DOGM evaluated the surface and ground water protection topic under the primary oversight objective for determining whether offsite impacts were being prevented. OSM and DOGM did not find any significant offsite impacts to surface or ground water that were occurring as a result of the mine, but they had not yet determined whether significantly decreased flows in one spring were caused by the mine. Because this determination had not

been made, OSM and DOGM could not conclude that the mine was not causing significant impacts to offsite water resources.

4. Permitting of Coal Mine Access and Haul Roads.

On July 3, 1995, DOGM sent to OSM a letter which included policy statements on the permitting of public roads. OSM agreed with the policy clarification and terminated a proceeding under 30 CFR Part 733 to substitute Federal enforcement for that part of the State program concerning the permitting of coal mine access and haul roads.

OSM and DOGM reviewed a permit that DOGM had issued during the evaluation period to determine whether DOGM was implementing its July 3, 1995, permitting policy. OSM and DOGM concluded that DOGM did not comply with the policy because, in deciding not to require two roads to be permitted, DOGM did not make written findings as to whether:

- the roads were maintained with public funds or in exchange for taxes or fees,
- the roads would be primary coal haulage roads constructed or reconstructed in a manner similar to other public roads of the same classification, and
- impacts from mining on the roads would be significant under Utah's definitions for "affected area" and "surface coal mining operations".

The OSM and DOGM members of the oversight team requested that DOGM reassess the permit by making written findings on the above-described criteria.

OSM and DOGM evaluated the roads permitting topic under the primary oversight objective for determining whether offsite impacts were being prevented. In the absence of written permit findings, OSM and DOGM could not determine whether DOGM was regulating roads impacts as intended by the approved Utah regulatory program.

B. Innovations

For the second year, persons from OSM and DOGM continued to work as a self-directed team to evaluate and assist DOGM in the administration, implementation, and maintenance of the approved Utah regulatory program. During the evaluation period, the team consisted of six program and permitting specialists (three each from OSM and DOGM) and five scientists (two from OSM and three from DOGM). The team continued to make progress in working together toward a common goal of improving the Utah regulatory program.

The Director, DOGM, and Chief, Denver Field Division, continued 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.

DOGGM joined with other interested parties to form the Hydrology Outreach Committee. The Committee, which meets frequently, describes itself as “a consortium of local, State and Federal government, consultants and industry representatives examining the interrelationships of water and mining, and promoting cooperation among water users.”

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 offsite 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 Division office.

A. Offsite Impacts

Table 4 shows the number and type of offsite impacts that OSM and DOGM documented as having occurred during the evaluation period.

OSM and DOGM compiled this information from 320 observations they made. These observations included 8 OSM and DOGM joint, complete inspections; 116 DOGM complete inspections; and 196 DOGM partial inspections. As explained in section IV.B.4 above, OSM and DOGM also jointly conducted a minesite evaluation to assess whether offsite impacts had occurred at one minesite as the result of DOGM not permitting two coal mine access and haul roads. Because the results of this evaluation were inconclusive, OSM and DOGM did not count this evaluation as an offsite impact observation.

From these offsite impact observations, OSM and DOGM found five incidents of offsite impacts to water resources and no offsite impacts to people, land, and man-made structures. For all five incidents, DOGM cited the operators with notices of violation. Although all five 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 offsite impacts is an indication that Utah is effective in preventing offsite impacts to water, people, land, and man-made structures.

B. Bond Releases

Table 5 shows the acreage released partially (phases I and II) or totally (phase III) from bond during the evaluation period. Of the 2,605 acres of total disturbance that had not yet received final (phase III) bond release at the end of the evaluation period, only 71 acres of this total received any type of bond release during the evaluation period. During the 16

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 30 permitted operations, 24 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, 1997, OSM funded the Utah program in the amount of \$1.40 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 provided funding was high (82.7 percent, table 8).

On September 13, 1996, OSM entered into a memorandum of understanding with DOGM that gave DOGM \$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 used 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.

On August 19, 1997, OSM entered into a memorandum of agreement with DOGM that gave DOGM \$6960 to buy computer hardware and software that will be used to set up an electronic permitting system. This system will allow persons to use the Internet to electronically retrieve formats for permit applications, to submit permit applications, and to access permit application and permit information such as DOGM technical analyses, probable hydrologic consequences analyses, and cumulative hydrologic impact assessments.

Under its Technical Training Program and Technology Transfer Program, OSM offers free of charge a variety of courses, workshops, and forums to State and Tribal employees. During the evaluation period, six DOGM employees attended the following Technical Training Program courses: Evidence Preparation and Testimony, Bonding Workshop - Cost Estimation, Instructor Training Course, Erosion and Sediment Control, and Wetlands Awareness. During the evaluation period, six DOGM employees attended the following Technology Transfer Program workshop and forum: Advanced Applied Statistics Workshop

and Computer Applications for Electronic Permitting Interactive Forum.

VII. Oversight Topic Reviews

In the time period from October 1, 1996, through September 30, 1997, OSM and DOGM evaluated the following topics: public participation, highwall elimination and retention as a part of AOC restoration, surface and ground water protection, and permitting of coal mine access and haul roads. Written reports for all of these topics are available for review in the OSM Denver Field Division office. OSM's and DOGM's analyses of all of these topics will continue into the next evaluation period.

Appendix. Tabular Summary of Core Data Characterizing the Utah Program

The following tables present data pertinent to mining operations and State and Federal regulatory activities within Utah. They also summarize Utah staffing and OSM funding. Unless otherwise specified, the reporting period for the data contained in all tables is October 1, 1996, to September 30, 1997.

TABLE 1

COAL PRODUCTION (Millions of short tons)			
Period	Surface mines	Underground mines	Total
1994	0.03	21.03	21.06
1995	0.07	24.57	24.64
1996	0.03	27.32	27.35

^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, 1997)												
Coal mines and related facilities	Number and status of permits									Disturbed acreage^A		
	Active or temporarily inactive		Inactive		Abandoned		Totals		Insp. Unit^D	IP	PP	Total
	IP	PP	Phase II bond release		IP	PP	IP	PP				
			IP	PP								
STATE and PRIVATE LANDS			REGULATORY AUTHORITY: UTAH									
Surface mines	-	1	-	-	-	-	-	1	-	-	202	202
Underground mines	1	2	-	2	-	-	1	4	-	40	35	75
Other facilities	-	2	-	-	-	-	-	2	-	-	516	516
Subtotals	1	5	-	2	-	-	1	7	-	40	753	793
FEDERAL LANDS			REGULATORY AUTHORITY: UTAH									
Surface mines	-	-	-	-	-	-	-	-	-	-	-	-
Underground mines	-	19	-	1	-	-	-	20	-	-	1731	1731
Other facilities	-	2	-	-	-	-	-	2	-	-	81	81
Subtotals	-	21	-	1	-	-	-	22	-	-	1812	1812
ALL LANDS^B												
Surface mines	-	1	-	-	-	-	-	1	-	-	202	202
Underground mines	1	21	-	3	-	-	1	24	-	40	1766	1806
Other facilities	-	4	-	-	-	-	-	4	-	-	597	597
Totals	1	26	-	3	-	-	1	29	-	40	2565	2605
Average number of permits per inspectable unit (excluding exploration sites) <u>.1</u>												
Average number of acres per inspectable unit (excluding exploration sites) <u>87</u>												
Number of exploration permits on State and private lands: <u>2</u> On Federal lands: <u>0</u> ^C												
Number of exploration notices on State and private lands: <u>0</u> On Federal lands: <u>6</u> ^C												
^F P: Initial regulatory program sites. ^{PP} : Permanent regulatory program sites.												
^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 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 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 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				0	2	142				0	2	142
Renewals				5	8	689				5	8	689
Incidental boundary revisions				2	2	346				2	2	346
Amendments				2	3	0 ^B				2	3	0 ^B
Revisions (exclusive of incidental boundary revisions)				102	78					102	78	
Transfers, sales and assignments of permit rights				7	7					7	7	
Small operator assistance				0	0					0	0	
Exploration permits				2	2					2	2	
Exploration notices ^C				6	0					6	0	
Totals				126	102	1177				126	102	1177
Number of midterm permit reviews completed that are not reported as revisions <u>6</u> ^A Includes only the number of acres of proposed surface disturbance. ^B Amendments (significant permit revisions) added 3245 acres to permitted acreage but none to disturbed surface acreage (i.e., all proposed disturbance was underground). ^C 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							4 ^A	1 ^A				
	Encroachment												
	Other												
	Total							4 ^A	1 ^A				
Total number of permits or minesites with observed off-site impacts: Permits <u> 4 </u> or Minesites <u> 4 </u>													
Total number of permits or mine sites evaluated: Permits <u> 30 </u> or Minesites <u> 30 </u>													
Total number of observations made to evaluate minesites or permits for off-site impacts <u> 320 </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 	71 ^A
Phase II	<ul style="list-style-type: none"> ● Surface stability ● Establishment of vegetation 	0 ^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 (September 30, 1996) ^B	2585 ^C
	Total number of acres disturbed during this evaluation year	20
	Number of acres disturbed during this evaluation year that are considered re-mining	0.00
<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> <p>^C Total does not include 287 acres for which bond forfeiture proceedings were ongoing at end of last review period and forfeited bonds were collected in current review period.</p>		

TABLE 6

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
	Sites	Dollars	Acres
Bonds forfeited as of September 30, 1996 ^A	1		
Bonds forfeited during EY 1997	1		
Forfeited bonds collected as September 30, 1996 ^A	1	38,000	1.5 ^B
Forfeited bonds collected during EY 1997	1	1,850,000	287.4 ^B
Forfeiture sites reclaimed during EY 1997	0	c	
Forfeiture sites repermited during EY 1997	0		
Forfeiture sites unreclaimed as of September 30, 1997	2		
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 Disturbed acres. ^C Cost of reclamation, excluding general administrative expenses.			

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FUNDS GRANTED TO UTAH BY OSM (Millions of dollars)		
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Administration and enforcement	1.40	82.7
Small operator assistance	0.00	0.0
Totals	1.40	

November 18, 1997

AGENDA FOR NOVEMBER 20, 1997, MEETING OF THE OSM/UTAH REGULATORY PROGRAM OVERSIGHT TEAM WITH THE OSM AND UTAH MANAGERS

1. Results of team's evaluations conducted for the oversight evaluation period October 1, 1996, through September 30, 1997

Detailed discussion of the following four topics that the team evaluated, with emphasis on findings, conclusions, and recommendations.

- Public participation (Pam Grubaugh-Littig and Ron Singh)
- Highwall elimination and retention as a part of approximate original contour restoration (Daron Haddock, Randy Harden, Gene Hay, and Dennis Winterringer)
- Surface and ground water protection (Sharon Falvey, Joe Helfrich, Mike Rosenthal, and Ken Wyatt)
- Permitting of coal mine access and haul roads (Henry Austin, Daron Haddock, Joe Helfrich, and Mike Rosenthal)

2. Annual summary report (Pam Grubaugh-Littig and Dennis Winterringer)

Discussion of the annual report, especially findings on offsite impacts (table 4) and reclamation success (table 5)

3. Perspectives on the successes and shortcomings of the team's oversight process (everyone)

What improvements, if any, should be made to the team's oversight process to make it more effective?

4. Revisions to OSM oversight directive REG-8 (Jim Carter and Jim Fulton)

Discussion of the oversight directive revisions, which were made in response to suggestions by the national Oversight Steering Committee and which are in effect for the 1998 oversight evaluation period (October 1, 1997, through September 30, 1998)

5. Topics to be evaluated for offsite impacts and onsite reclamation success during the next evaluation period (everyone)

- Some aspect of public participation

- Continuation of:

Highwall elimination and retention as a part of approximate original contour restoration

Surface and ground water protection

Permitting of coal mine access and haul roads

- Suggestions for other topics

- Is Utah interested in conducting any self-evaluations?

6. Number and type of inspections to be conducted by OSM during the 1998 evaluation period (Joe Helfrich)

Suggestion by Henry Austin for 5 joint (OSM/Utah) complete inspections

7. Changes in membership of the team (Pam Grubaugh-Littig and Dennis Winterringer)

Proposals that:

- Henry Austin continue in inspector role but discontinue in roads permitting evaluator role

- Ron Sassaman be added to team to assist in minesite evaluations

Any proposed changes in Utah membership?

8. Team training (Jim Fulton and Dennis Winterringer)

Suggestion for OSM-paid team training by contractor

① MOU w/ DEQ: Need to revisit - 2 MOU from Team
possibly add I&E protocol to MOU

② LPA review difficult / CAT slopes / highwater...

③ Hydro material damage standards - what does OSM use?
OT developing criteria

CHAS post '93 have criteria...

CHRA review @ Sig. change

Birch Spring 84 gpm \downarrow 16 gpm

④ Roads Impacts from mg \neq sig

① mant = coal

② mant routes similar to coastal LMA

③ mant ^{cross} ~~cross~~ length



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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/007/001, WHITE OAK MINING COMPANY, WHITE OAK MINE				
White Oak #1 Mine Portals	Pre-SMCRA, 1976	Plate R645-301-527, Figure R-12, pp R-10 through R-17. Information in the text of the plan is poor but does indicate that the slopes above the highwalls have been reduced to accommodate reclamation.	Elimination, deficient	Active
White Oak #2 Mine Portals	Pre-SMCRA	Plate R645-301-527, Figure R-12, pp. R-10 through R.	Elimination, deficient.	Active
Loadout Area Portals	Pre-SMCRA	Plate R645-301-527, Figure R-12, pp. R-10 through R. Elimination to the extent possible, some cuts may remain above the portal faceups under R645-301-553.500 as needed. These are old, pre-SMCRA mine openings which were not used during current permitted operations. Operator is proposing to re-enter the mine in this area, but with new portals	Partial retention, R645-301-553.500, deficient.	Sealed/Caved
ACT/007/004, AMAX COAL COMPANY, CASTLE GATE MINE				
Adit #1 Area	Pre-SMCRA, 1888	Exhibit 3 5-1, Section 3 5, pp 3 5-9 Portion of portal collar to be left as historically significant.	Partial retention, R645-301-553.500,	Pending reclamation
Hardscrabble Canyon Area	Pre-SMCRA	Exhibit 3.3-1, Section 3.3, pp. 3.3-6, 3.3-38, Figure 3.3-3 on pp. 3.3-72, and revised April 1996 reclamation plan. Elimination in most areas and Retention of two highwall areas (R645-301-553.500) No 4 mine conveyor belt portal highwall and No. 5 Mine where portals were extended beneath a large natural cliff.	Retention, R645-301-553.500.	Currently undergoing active reclamation.
Sowbelly Canyon Area	Pre-SMCRA	Exhibit 3.2-1, Section 3.2. All highwalls associated with mine openings are to be eliminated by backfilling. Some cut-slope areas not related to mine openings remain	Elimination.	Phase I bond release, 1/30/97.
ACT/007/005, CANYON FUEL COMPANY, SKYLINE MINE				
Mine #1 Portals	Post-SMCRA, 1980	Map 3 2 2 1 Appears that all portal highwalls for #1 Mine will be eliminated to the extent possible and that slopes above the highwalls are to be reduced to maintain stability. Plan needs to more concisely address highwall elimination to demonstrate AOC.	Elimination, deficient	Active
Mine #3 Portals	Post SMCRA, 1980	Map 3.2.1-1 Plans are deficient regarding discussion of highwall elimination. Highwall areas reduced to 1:1 slopes above portals in rock outcrop and will remain as part of final reclamation but does not indicate that the final configuration effectively eliminates the highwall during reclamation.	Elimination, deficient.	Active

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
South Fork Ventilation Portals	Post-SMCRA, 1992	Map 3.2.1-1 Plans are deficient regarding discussion of highwall elimination. Drawings indicate complete elimination of highwall above the portals by backfilling	Elimination, deficient.	Active
ACT/007/006, CYPRUS PLATEAU MINING CORPORATION, STAR POINT MINE				
Lion Deck Portal Area	Under Review. Portal area highwalls are Pre-SMCRA but may have been re-affected by mining expansion.	Maps 542.200a, b and c, 1976 flyover photos and topographic maps (attached to questionnaire). The Division has reviewed the plan and identified deficiencies regarding highwall elimination as part of those deficiencies in the plan. Evaluation of this mine site will occur following submittal of information required under those deficiencies. Under Review. Plans are deficient regarding discussion of highwall elimination. Due to geomorphology, complete elimination of highwalls will most likely not be feasible. May qualify under "re-mining" consideration for highwall retention or as cliff replacement in others. Mitigation may require elimination of highwalls to the extent they were re-affected if post-SMCRA activities occurred. Highwalls which are pre-SMCRA and not re-affected may require more information under R645-301-553.500 to be approvable.	Retention, deficient.	Active.
#1 Mine Portals	Pre-SMCRA	See above	Retention, deficient.	Active.
#2 Mine Portals	Pre-SMCRA, may have re-affected highwall Post-SMCRA	See above	Retention, deficient.	Active.
ACT/007/007, SUNNYSIDE COAL COMPANY, SUNNYSIDE MINE				
Entire Complex	Pre-SMCRA, all openings. 37 Portals, 9 Shafts	Pending designs and construction under bond forfeiture by the Division.	Some highwall areas may be retained based on stability analysis and based on availability of funds through bankruptcy	All operations are currently inactive/abandoned. Reclamation activity is scheduled for 1997-1999.
ACT/007/011, UNITED STATES FUEL COMPANY, HIAWATHA COMPLEX				
King 4 Intake Portals	Pre-SMCRA, 1975.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp 72-76	Elimination	Sealed
King 4 Belt & Return Portals	Pre-SMCRA, 1975.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 5 Portals	Highwall Faceup, Pre-1978. Portals Driven in spring of 1978.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 6/King 3 Intake & Return Portals	Pre-SMCRA, 1947.	Plate V-12, South Fork Lower Bench, Chapter II Soils, pp. 72-76.	Partial retention, R645-301-553.500.	Sealed.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Hiawatha 1 & 2, King 1 & 2, South Fork "B" and "A" Seams	Pre-SMCRA, within permit area but not re-affected under current permit	Pre-Act	N/A	Sealed.
ACT/007/012, NEVADA ELECTRIC INVESTMENT COMPANY, WELLINGTON PREPARATION PLANT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/013, INTERMOUNTAIN POWER AGENCY, HORSE CANYON MINE				
North Fan	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Woodward East and West	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Carlson East and West	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Rock Tunnel	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Main Intake North	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
South Fan	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Lila Canyon East and West	Pre-SMCRA, before 1953.	Chapter 2, Section 2.8, pp. 11-14. no real highwall associated with this breakout.	Reclaimed. Natural rock fall covers portal area.	To be left "as-is", Phase I Bond Release, Feb. 5, 1997.
Main Intake South	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Elimination.	Pending Reclamation
Manway	Pre-SMCRA, before 1953	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16	Elimination	Pending Reclamation
ACT/007/016, MOUNTAIN COAL COMPANY, GORDON CREEK 2, 7 & 8 MINES				
Portal Access #2 Mine	Pre-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall remnants to occur due to spoil availability and stability.	Partial Retention, R645-301-553.500.	Pending Reclamation.
Old #2 Mine Fan Portal Access	Pre-SMCRA	Volume 1, Plate 3-2, Plate 3-7B, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall remnants to occur due to spoil availability and stability.	Partial Retention, R645-301-553.500.	Pending Reclamation.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Portal Access to #7 Mine	Post-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Unable to completely backfill due to spoil/stability issues. Resolved by joint approval with OSM regarding reclamation designs in 1995. Portion of highwall is retained but stable.	Partial Retention.	Reclaimed, Pending Bond Release.
Portal Access to #8 Mine	Post-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall has been completely backfilled	Eliminated.	Reclaimed, Pending Bond Release.
ACT/007/017, MOUNTAIN COAL COMPANY, GORDON CREEK #3 AND #6 MINES				
#3 Mine Portal	Pre-SMCRA, 1975.	Reclaimed. Refer to TDN 94-020-179-002 and letter dated 11/10/94.	Eliminated.	Reclaimed, Phase I Bond Release, 6/26.87, Phase II Bond Release, 2/13/95.
#6 Mine Portal	Pre-SMCRA, 1975.	Reclaimed. Refer to TDN 94-020-179-002 and letter dated 11/10/94	Elimination.	Reclaimed, Phase I Bond Release, 6/26.87, Phase II Bond Release, 2/13/95
ACT/007/018, CANYON FUEL COMPANY, SOLDIER CANYON MINE				
East Portal Area	Post-SMCRA, circa 1990	Volume 1, Chapter 5, section 5.53 through 5.53-24. Exhibit No. 7.60a, Volume 7. Highwalls shown to be backfilled as per drawings.	Elimination.	Active.
West Portal Area	Pre-SMCRA	Volume 1, Chapter 5, section 5.53 through 5.53-24. Exhibit No. 7.60a, Volume 7. Highwalls shown to be backfilled as per drawings	Elimination.	Active.
ACT/007/019, ANDALEX RESOURCES, CENTENNIAL PROJECT				
Apex Portals	Post-SMCRA, 1982	Plates 14 and 15, Section R645-301-532.200 of the plan Plan shows only partial backfilling at the portals.	Retention, deficient	Active
Pinnacle Portals	Post-SMCRA, 1980.	Plates 14 and 15, Section R645-301-532.200 of the plan. Plan show only a portion of the highwall to be backfilled.	Retention, deficient.	Active.
Aberdeen Portals	Post-SMCRA, 1989.	Plates 14 and 15, Section R645-301-532.200 of the plan.	Retention, deficient.	Active.
Lower Pinnacle Portals	Post-SMCRA, 1980	Plates 14 and 15, Section R645-301-532.200 of the plan.	Retention, deficient.	Active.
Left Fork Fan Portal	Post-SMCRA, 1995	Plates 14 and 15, Section R645-301-532.200 of the plan.	Elimination, deficient. plans	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/007/020, HORIZON COAL COMPANY, HORIZON MINE				
Fan Portal	Pre-SMCRA, Re-opened for new permit.	Section 3.5.4.1, pp. 3-32, Plate 3-7.	Elimination.	Currently being re-activated.
Hiawatha Seam Portal	Pre-SMCRA, Re-opened for new permit.	Section 3.5.4.1, pp. 3-32, Plate 3-7.	Elimination.	Currently being re-activated.
Other Portals within Permit Area	Pre-SMCRA	See Map attached to questionnaire response (Plate 3-7).	Reclaimed by AMR Program	Not Re-Affected by current mining operations
ACT/007/021, NORTH AMERICAN EQUITIES, BLAZON MINE #1				
# 1 Mine Portals	Post-SMCRA, 1980 3 portals	Reclamation Plan pp.18-35	Partial Retention	Phase I Bond release approved by Board Order on 2/28/91. Site is currently abandoned and under bond forfeiture
ACT/007/022, SAVAGE INDUSTRIES, SAVAGE COAL TERMINAL				
Loadout Facility	No Portals		No Highwalls	
ACT/007/033, ANDALEX RESOURCES, WILDCAT LOADOUT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/034, CANYON FUEL COMPANY, BANNING SIDING LOADOUT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/035, SUNNYSIDE COGENERATION ASSOCIATES, SUNNYSIDE REFUSE AND SLURRY				
Refuse Recovery Facility	No Portals		No Highwalls	
ACT/007/038, CYPRUS PLATEAU MINING CORPORATION, WILLOW CREEK MINE				
Crandall Canyon Area	Post-SMCRA, 2 Shafts	Exhibit 20, Volumes 14, 14A, and 14B. See revised reclamation plan, Exhibit 3.7-7, Section 3.7, Appendix 3.7U.(AMAX Plan) Slopes adjacent to shafts were cut in rock to accommodate surface facilities. Portions of these cuts will remain following reclamation but are part of cliff-forming members in the canyon.	Elimination	Inactive.
Gravel Canyon Area	Pre-SMCRA, No Openings	Section 3.6, Exhibit 3.6-1, Exhibit 19, Volume 13B.	No Highwalls.	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Preparation Plant Area	Mixed Pre-SMCRA and Post-SMCRA disturbances.	Section 3.4, Exhibit 3.4-1, Exhibit 19, Volume 13	No Highwalls.	Active
Willow Creek Area	Mixed Pre-SMCRA and Post-SMCRA disturbances. Portal Faceup area is Pre-SMCRA, 1976.	Section 5.4, Volume 3. Map 18A, Volume 6. Portal Faceup area was reclaimed under the AMR program prior to new permitting action. Plan calls for backfilling the highwall to the same extent that the highwall was previously backfilled during AMR reclamation.	Elimination.	Active.
Conveyor Tunnels	Pre-SMCRA	Tunnels were initially excavated pre-SMCRA as railroad tunnels. Operator has re-opened these tunnels and used them for conveyors from the mine facilities to the loadout facilities. Reclamation of these facilities is discussed in the reclamation backfilling and grading plan	Not Applicable.	Active.
PRO/007/039, CANYON FUEL COMPANY, DUGOUT CANYON MINE				
Under Permit Application		Not yet permitted		
ACT/015/002, WESTERN STATES MINERALS CORPORATION, J. B. KING MINE				
Mine Portal Area	Pre-SMCRA, 1930's. 1 Portal.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated	Reclaimed, Phase I Bond Release, 5/20/86.
ACT/015/004, MOUNTAIN COAL COMPANY, HUNTINGTON CANYON #4 MINE				
Mine Portal Area	Pre-SMCRA, 1940's 3 Portals.	Reclaimed Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated	Reclaimed, Phase I Bond Release, 11/10/86, Phase II Bond Release, 1/30/96.
ACT/015/007, CONSOLIDATION COAL COMPANY, HIDDEN VALLEY MINE				
Portal Faceup Area	Post-SMCRA, 1980.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated.	Reclaimed, Phase I Bond Release, 7/17/88.
ACT/015/009, ENERGY WEST MINING COMPANY, TRAIL MOUNTAIN MINE				
Trail Mountain Fan Portal	Pre-SMCRA, modified and extended highwall area in 1993.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Diesel Roadway Portal	Post-SMCRA, 1993	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Belt Portal	Pre-SMCRA, modified in 1993.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Return Portals adjacent to Belt Portal	Pre-SMCRA, Collar added in 1994.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Portals, old	Pre-SMCRA	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Sealed.
Return Entry	Post-SMCRA, 1991.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3 5 4 2, pp 3-62, Plate 3-5	Elimination.	Active.
ACT/015/015, CONSOLIDATION COAL COMPANY, EMERY DEEP MINE				
Main Portal Area	Pre-SMCRA, 1945	Chapter III, Plate III-8. Portals are located at the base of a natural cliffs.	Elimination.	Operations are currently in temporary cessation.
4 East Portals	Proposed.	Plans approved for 4 East Portal construction in 1990 but have not been constructed	Elimination.	Proposed.
ACT/015/017, ENERGY WEST MINING COMPANY, DES-BEE-DOVE MINE				
Deseret Mine Portals	Pre-SMCRA, 1948-1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Beehive Mine Portals	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Little Dove Mine Portals	Pre-SMCRA, April 1977	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Deseret: Stump Flat Breakout	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	Sealed, no highwall associated with breakout.
Beehive: 10 th East Breakout	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	Sealed, no highwall associated with breakout
ACT/015/018, ENERGY WEST MINING COMPANY, DEER CREEK MINE				
Deer Creek Main Portals	Pre-SMCRA, 1970 3 Portals	Volume 2, pg 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Belt Portal	Pre-SMCRA, 1970 1 Portal	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Main Fan Shaft	Interim, August, 1977 1 Shaft	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Old McKinnon Fan Portals	Pre-SMCRA, pre-1970's 2 Portals	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Portals are sealed and backfilled, highwall backfilling pending final reclamation of active operations.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
9 th East Portals above Wilberg Mine	Interim, May, 1977 3 Portals	Volume 2, pg. 4-5 thru 4-7.	No Highwall associated with openings.	Active
9 th East Portals, Meetinghouse Canyon	Post-SMCRA, 1986 2 Portals	Volume 2, pg. 4-5 thru 4-7.	No Highwall associated with openings.	Active
Rilda Canyon Breakouts	Post-SMCRA, 1995 2 Portals	Volume 2, pg. 4-5 thru 4-7.	Elimination	Active
ACT/015/019, ENERGY WEST MINING COMPANY, COTTONWOOD/WILBERG MINE				
Wilberg Mine Fan	Pre-SMCRA, 1973	Volume 2, pg. 4-2 thru 4-3 Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Wilberg Fan Portal	Post-SMCRA, 1978-1979.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Belt Portal, Wilberg	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Intake Portal, Wilberg	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Underground Offices	Pre-SMCRA, 1975-1976.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Old Portals, Shop Area	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Old Portals, Water Tank	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Portals, Wilberg, before mine fire	Interim, May, 1977.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Mine Access Tunnel, Cottonwood	Post-SMCRA, 1982-1983.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Intake Portals, Cottonwood	Post-SMCRA, 1982, 1985	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Fan Access Tunnel	Post-SMCRA, 1982-1983.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Fan Portal, Cottonwood	Post-SMCRA, 1984	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Belt Portal, Cottonwood	Post-SMCRA, 1984	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Canyon Portal	Post-SMCRA, 1995.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Canyon Fan Portal	Post-SMCRA, 1995.	Volume 2, pg. 4-2 thru 4-3, 4-4.1. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Cottonwood Canyon Fan Portal Faceoff	Post-SMCRA, 1980.	Volume 2, pg. 4-2 thru 4-3, Volume 6, 4-6, 4-7, 3-14, Fig. 1, Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Miller Canyon Breakouts	Post-SMCRA, 1981/	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	No highwall associated with openings.	Sealed
Channel Canyon Breakouts	Post-SMCRA, 1989.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire)	No highwall associated with openings	Sealed
ACT/015/021, CO-OP MINING COMPANY, TRAIL CANYON MINE				
Portal Area	Pre-SMCRA, 1047	Reclaimed Refer to ALJ decision dated 6/6/94	Eliminated	Reclaimed, Phase I Bond Release, 7/18/94, Phase II Bond Release, 1/31/96
ACT/015/025, CO-OP MINING COMPANY, BEAR CANYON MINE				
Hiawatha Intake	Post-SMCRA, after May 3, 1978	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp 3-72 through 74, Plate 3-2C.	Elimination	Active
Hiawatha Belt	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Intake	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 2-5.	Elimination.	Active.
Blind Canyon Belt	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Fan	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pg. 3-72.p. 3-72 through 74, Plate 3-2E.	Elimination.	Active.
Bear Canyon Fan	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Fan #2	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 2-5	Elimination.	Active.
ACT/015/032, GENWAL RESOURCES, CRANDALL CANYON MINE				
Portal Area - North Side	Pre-SMCRA, 1940's Re-activated in 1983, 4 Portals	Plate 5-3 Operator has submitted revised mine plan information regarding highwall elimination as an amendment to the plan,. Currently under review by the Division as Amendment 97A.	Deficient, not Discussed in Plan.	Active.
Portal Area - South Side	Proposed, Not yet constructed	Refer to Crandall Creek Culvert Amendment Complete highwall elimination proposed in the plan	Elimination.	Proposed.
PRO/017/001, GARFIELD COAL COMPANY, DAVIES COAL MINE				
Under Permit Application		Not yet permitted.		Proposed.

UTAH - HIGHWALL INVENTORY (Page 10 of 10) last updated November 18, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/041/002, CANYON FUEL COMPANY, SUFCO MINES				
SUFCO Mine Area	Pre-SMCRA	Appendix 5-2, Volume 6 describes cutslopes. Appendix 5-2, Plates 1 and 2 provide locations and cross sections. Reclamation plan are found in Volume 2, Chapter 5 Sections 5.4.2.2, 5.5.3.1, and 5.5.3.6 and Volume 6 Appendix 5-2, Section 5 0	Retention, R645-301-553.500	Active.
ACT/041/005, BHP PETROLEUM AMERICAS, KNIGHT MINE				
Main Portals Area	Fall, 1977 3 Portals	Reclaimed under Interim Regulations in 1987	Complete Elimination, upheld in ALJ hearings. Cut slopes above the portal areas were incorporated into the design as part of highwall elimination.	Reclaimed, Phase I Bond Released on November 8, 1994.
Old Portals Area	Pre-SMCRA	Reclaimed - not part of permitted mining operations.	Pre-SMCRA (AMR eligible) This area was reclaimed by the operator, but not as part of the permitted mining operations. Portals were closed but cuts remain relative to the road, pad and portal structures	Gratuitous Reclamation by operator.
ACT/043/008, SUMMIT COAL COMPANY, BOYER MINE				
Mine Area	Post-SMCRA 1986, 3 portals	Reclamation accomplished by DOGM following bond forfeiture	Complete elimination as per plans and specifications written by the Division in the construction contract for the Boyer Mine.	Reclaimed, final

October 31, 1997

Utah Regulatory Program Oversight Evaluation
Evaluation Year 1997

Name of Element: Highwall Elimination and Retention As a Part
of Approximate Original Contour (AOC)
Restoration.

Team Members: Daron Haddock (DOGM), Randy Harden (DOGM), Gene
Hay (OSM-WRCC), and Dennis Winterringer (OSM-WRCC)

SMCRA Goal: Section 515(b) (3)

Section 515(b) (3) requires backfilling and grading all mined land to restore AOC of the land with all highwalls eliminated. OSM has approved the Utah program with limited exceptions to the requirement to eliminate all highwalls. These exceptions apply to: (1) previously mined areas (remining in areas where highwalls were created before May 3, 1978), (2) continuously mined areas (continuous mining both before and after May 3, 1978, in areas where the highwall was created before May 3, 1978), and (3) in areas where the "AOC alternative" applies (mining after December 13, 1982, the date the Utah program AOC alternative was approved by OSM, where the highwall replaces a cliff or cliff-like feature).

Reason for Selection:

Both OSM and DOGM acknowledged the need to resolve this important issue for the Utah regulatory program.

The team initiated review of this element during the previous evaluation year (January 1, 1996, through September 30, 1996).

Study Focus:

The team continued to evaluate this element under the primary oversight objective for determining whether minesite reclamation is successful. In accordance with this objective, the study focus was onsite evaluation of highwall elimination and retention issues at selected mines.

Planned Review:

(a) Continuing Evaluations

Revision of Utah's April 6, 1994, Directive Tech-002 (Approximate Original Contour (AOC) Requirements). During the last evaluation period, the team found that Directive Tech-002 was not consistent with Utah's rule at R645-301-553.650.100 because it did not indicate that a highwall retained under the AOC alternative cannot be greater in length and height than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations.

The team requested that DOGM, by December 31, 1996, revise the directive to add the length criterion.

Determination of highwall creation dates. During the last evaluation period, the team found that not all permits included maps of sufficient detail to show when the highwalls were created. Without this information, DOGM cannot determine which highwalls must be completely eliminated (post-May 3, 1978) and which must only be eliminated to the maximum extent technically practical using all reasonably available spoil in the permit area (pre-May 3, 1978).

The team requested that DOGM, by November 29, 1996, develop an expedited timetable for determining the status and extent of all highwalls and adjacent disturbances on all permitted operations.

(b) New Evaluations

Review Schedule:

November 26, 1996	DOGM developed an expedited timetable for determining the status and extent of all highwalls on all permitted operations.
December 16, 1996	The DOGM Director signed the revised Directive Tech-002.
February 7, 1997	DOGM sent a survey to selected mine operators asking for information on highwall creation dates. The due date for the operator responses was March 4, 1997.
March 31, 1997	DOGM reviewed and verified the survey information and prepared the attached inventory of mines that identifies for each highwall (1) a creation date, (2) the specific sections of the permit reclamation plan that address the highwall, (3) whether

the highwall will be eliminated or retained and whether there is a permit deficiency associated with the plan for the highwall, and (4) the status of the highwall (proposed, active, inactive, or reclaimed).

September 29 -
October 3, 1997

The team conducted minesite evaluations and permit reviews of the following mines.

- Minesite evaluations of highwalls that the highwalls inventory indicated would be retained under the AOC alternative (Consolidation Coal Company, Emery Deep Mine; Cyprus Plateau Mining Corporation, Willow Creek Mine, Crandall Canyon)
- Minesite evaluations of highwalls for which the inventory identified permit deficiencies, including situations where the reclamation plans did not require complete elimination of highwalls and where the reclamation plans were incomplete or unclear (Andalex Resources, Centennial Project; Energy West Mining Company, Cottonwood/Wilberg Mine; and Energy West Mining Company, Deer Creek Mine)
- Permit reviews (Canyon Fuel Company, Skyline Mine; Cyprus Plateau Mining Corporation, Star Point Mine; Genwall Resources, Crandall Canyon Mine; and White Oak Mining Company, White Oak Mine)

Findings:

(a) Applicable Utah Rules

R645-100-200. The rule defines "highwall" to mean "the face of exposed overburden and/or coal in an open cut of a surface coal mining and reclamation activities or for entry to underground coal mining activities."

The rule defines "continuously mined areas" to mean "land which was mined for coal by underground mining operations prior to August 3, 1977, the effective date of the Federal Act

[(SMCRA)], and where mining continued after that date."

The rule defines "previously mined area" to mean "land previously mined on which there were no coal mining and reclamation operations subject to the standards of the Federal Act" (SMCRA).

R645-301-553.610, .611, and .612. The rules require all highwalls on continuously mined areas and previously mined areas to be backfilled to the maximum extent technically practical using all reasonably available spoil in the permit area. Such highwalls are not required to be completely eliminated where the volume of reasonably available spoil is demonstrated in writing to DOGM to be insufficient to completely backfill the highwalls.

R645-301-553.650, .650.100, .650.200, and .650.400. The rules allow operators under the AOC alternative to not eliminate highwalls if the highwalls replace pre-existing cliffs and cliff-like escarpments. In order to take advantage of these rules, the permittee must establish, and DOGM must find in writing, that the remaining highwalls will, among other additional requirements, (1) achieve a minimum long-term static safety factor of 1.3, or some other appropriate alternative criterion, (2) not be greater in height or length than the cliffs or cliff-like escarpments that they replace, (3) resemble the structure, composition, and function of the natural cliffs they replace, and (4) be compatible with the postmining land use and visual attributes of the area.

(b) Applicability Date of SMCRA, the Federal Rules, and Utah Rules

The initial regulatory procedures at section 502(c) of SMCRA required that on or after 9 months from the date of enactment of SMCRA, all surface coal mining operations on lands on which such operations are regulated by a State shall comply with several provisions of SMCRA including section 515(b)(3). The date of enactment of SMCRA is August 3, 1977; the date 9 months from the date of SMCRA enactment is May 3, 1978. Section 701(28) of SMCRA defines "surface coal mining operations" to include surface operations and surface impacts incident to underground mines. Section 515(b)(3) of SMCRA requires, with certain limited exceptions, that all surface coal mining operations backfill, grade, and eliminate all highwalls in order to restore the approximate original contour. Therefore, section 502(c) of SMCRA required that on or after May 3, 1978, all surface operations for underground mines comply with the requirement of section 515(b)(3) of SMCRA to backfill, grade, and eliminate all

highwalls to achieve approximate original contour.

Consistent with these SMCRA requirements, the initial program Federal regulations at 30 CFR 710.11(a)(3) required any person conducting coal mining operations after May 3, 1978, to comply with the initial regulatory program. The initial regulatory program underground mines regulation at 30 CFR 717.14(a)(2) required permittees to backfill and grade to the most moderate slope possible to eliminate any highwall along roads, mine entry faces, or other areas.

On January 21, 1981, OSM conditionally approved the Utah permanent regulatory program. The approved Utah rule at R645-301-142.210 requires operators to submit permit application maps and plans that clearly show which coal mining and reclamation operations occurred prior to May 3, 1978.

On December 13, 1982, OSM approved Utah's AOC alternative.

Effective November 20, 1995, Utah revised its rules at R645-301-553. As discussed above in item (a), these rules concerned highwall reclamation on continuously mined areas and previously mined areas, and highwall retention under the AOC alternative.

The November 20, 1995, rules are clear that highwalls created before August 3, 1977, in continuously mined areas and previously mined areas must be backfilled to the maximum extent technically practical using all reasonably available spoil. These rules are not clear about highwalls created from August 3, 1977, through May 3, 1978. Based on the above discussions of sections 502(c) and 515(b)(3) of SMCRA, the Federal initial regulatory program regulations at 30 CFR 710.11(a)(3) and 717.14(a)(2), and the Utah rule at R645-301-142.210, the team believes that highwalls created from August 3, 1977, through May 3, 1978, need not be completely eliminated and must also only be backfilled to the maximum extent technically practical using all reasonably available spoil.

In approving the November 20, 1995, rules and an earlier version of them, OSM clarified the applicability date for the AOC alternative rules. As discussed in the September 17, 1993, and May 30, 1995, Federal Register (58 FR 48600, 48605 - 48606; 60 FR 28040, 28046 - 28047), only those highwalls that were created after December 13, 1982, (the date OSM originally approved Utah's AOC alternative) and replace pre-existing cliffs and cliff-like escarpments do not have to be backfilled and graded. That is, no highwall created between August 3, 1977, and December 13, 1982, could qualify to be retained under the AOC alternative, because

no approved AOC alternative existed in the Utah program. The team believes that if an operator did create a highwall between August 3, 1977, and December 13, 1982, and the highwall could be retained under the AOC alternative rules, the operator could retain the highwall if it submitted a permit revision application and Utah approved it (i.e., although the operator created the highwall before December 13, 1982, Utah could approve the highwall retention on the basis that the permit revision was submitted after December 13, 1982).

(c) Highwalls Inventory

Following are summary analyses of data included in the highwalls inventory.

Highwalls retained under Utah's AOC alternative. Under the AOC alternative provision of Utah's program, a highwall need not be eliminated during reclamation if the permittee establishes and DOGM finds in writing that, among other things, the highwall replaces a pre-existing natural cliff or similar natural premining feature and resembles the structure, composition, and function of the natural cliff that it replaces.

The highwall inventory, which the team drafted on March 31, 1997, indicated that highwalls would be retained at only two mines (Consolidation Coal Company, Emery Deep Mine, and Cyprus Plateau Mining Company, Willow Creek Mine, Crandall Canyon area). As discussed below in "(d) Field Evaluations", the team agreed after conducting field evaluations at these mines that the permits for these mines did not actually allow the retention of highwalls under the AOC alternative. Therefore, the team revised the inventory.

OSM originally approved the AOC alternative in 1982 (December 13, 1982, 47 FR 55872, 55873). Because Utah has not in the 15-year period since 1982 permitted any mines to retain highwalls under the AOC alternative, the team believes that this provision will not have much, if any, application in the State.

Permit deficiencies. In the highwalls inventory, the team found that 7 of the 35 mines (20 percent) have permit deficiencies relating to highwall reclamation (shown in redline on the attached copy of the inventory). These deficiencies include (1) those situations where the permits show parts of post-May 3, 1978, highwalls that will be retained contrary to the requirements of Utah's program and (2) other situations where the permits are not clear as to what extent pre- and post-May 3, 1978, highwalls will be eliminated.

DOGM will need to require the permittees to revise their reclamation plans to resolve these deficiencies.

Highwalls created prior to May 3, 1978. The permittees created 59 percent of the inventoried highwalls (57 of 97) prior to May 3, 1978.

For these highwalls, the Utah program provisions concerning previously mined areas (remining) or continuously mined areas apply. In both cases, the Utah rules allow some parts of highwalls to remain so long as the permittees backfill the highwalls to the maximum extent technically practical using all reasonably available spoil in the permit area.

Highwalls created after May 3, 1978. The permittees created 41 percent of the inventoried highwalls (40 of 97) after May 3, 1978.

The Utah program provisions require that these highwalls be completely eliminated.

Of the post-May 3, 1978, highwalls, 48 percent (19 of 40) have some kind of permit deficiency associated with them. These permit deficiencies include those situations where the permits show that parts of highwalls will not be completely eliminated and other situations where the permits are not clear as to whether highwalls will be completely eliminated.

As the result of field evaluations conducted last evaluation year, the team identified one post-May 3, 1978, highwall that will not be completely eliminated in the reclamation process (Mountain Coal Company, Gordon Creek No. 7). OSM and DOGM have agreed that, if the highwall were completely backfilled, it would not be stable. The team agrees that the highwall should not have been permitted for construction.

In addition to this highwall that will not be entirely eliminated, the team identified two cut-slopes where the permits do not require the cut-slope to be eliminated and where it appears highly unlikely that the permittees will be able to eliminate the cut-slopes using conventional backfilling and grading and engineering practices (Cyprus Plateau Mining Corporation, Star Point Mine, cut-slope to create parking lot adjacent to Lion Deck Portal area; and Cyprus Plateau Mining Corporation, Willow Creek Mine, cut-slope for road accessing the School House Canyon refuse pile). Prior to DOGM and OSM concluding that these cut-slopes cannot be entirely eliminated, DOGM should require the permittees to revise their permits to

eliminate the cut-slopes. If the permittees cannot do so, and DOGM and OSM agrees with the permittees' assessment, DOGM and OSM should then identify these cut-slopes as ones that cannot and will not be eliminated.

In some permits and at the time of backfilling in the field, DOGM is using its discretion to allow permittees to retain parts of post-May 3, 1978, highwalls if the slopes of the backfilled material would be greater than 2v:1h (making it more prone to landslides, less erosionally stable, and less conducive to revegetation establishment) and/or the toes of the backfilled slopes would encroach on drainages in valley bottoms causing them to be steeper (making them less erosionally stable). Although this practice could be argued to be more holistic in its approach to minesite reclamation, this practice nevertheless is not consistent with the Utah regulations that require complete elimination of post-May 3, 1978, highwalls.

(d) Field Evaluations

The following is a summary description of minesite evaluations that the team conducted on September 30 and October 1, 1997. In addition to this description, please also see the accompanying videotape that shows site conditions that existed at the mines.

Andalex Resources, Centennial Project. On September 30, 1997, Michael Glasson, Andalex Resources, and Steven Demczak, DOGM inspector, accompanied the team during its field evaluation at the Centennial Project. The group observed the highwalls at the Apex Portals, Pinnacle Portals, Aberdeen Portals, and Lower Pinnacle Portals.

The highwalls inventory indicated that all of these portals were created after May 3, 1978. However, Michael Glasson stated that he had photographs of the site that showed some pre-May 3, 1978, mine disturbances that existed prior to Andalex Resources' initiation of operations. If Andalex Resources revises its permit to include this information, the team will need to revise the inventory.

The highwalls inventory also indicated that the permit reclamation plan for all of the portals was deficient. Particularly, the reclamation plan for the Apex Portals and Pinnacle Portals was deficient because it showed only partial elimination of these post-May 3, 1978, highwalls. The backfilling and grading map cross-sections for these portals showed the retention of up to 30 vertical feet of highwall in

these portal areas.

DOGM will require Andalex Resources to revise the Centennial Project permit to correct the permit deficiencies.

Consolidation Coal Company, Emery Deep Mine. On September 30, 1997, Steven Behling, Consolidation Coal Company, accompanied the team during its field evaluation at the Emery Deep Mine.

The only post-May 3, 1978, portal is the return air portal. There is no highwall associated with this portal because it is a shaft for which no disturbance of the adjacent natural cliff occurred.

As indicated in the highwalls inventory, all of the other portal disturbances occurred prior to May 3, 1978. The mine operators constructed these portals in the coal seam at the base of the natural cliffs. The operators only had to remove a relatively small amount of soil and rock in order to expose the coal seam. The width of these highwalls is only slightly larger than the width of the portals themselves, and the height of these highwalls is approximately the height of the coal seam. No disturbance of the natural cliffs above the portals occurred. The highwalls inventory indicated that the approved permit reclamation plan allowed for retention of the small highwalls (i.e., cliff replacement) under Utah's AOC alternative. Upon further review, the team agreed that under the permit backfilling and grading plan the permittee will simply be backfilling and grading the small highwall disturbances. As such, no highwalls will be retained under Utah's AOC alternative. For this reason, the team revised the highwalls inventory.

Energy West Mining Company, Cottonwood/Wilberg Mine. On October 1, 1997, several representatives from Energy West Mining Company (including Charles Semborski) and William Malencik, DOGM inspector, accompanied the team during its field evaluation at the Cottonwood/Wilberg Mine.

The team visited the site of the proposed Cottonwood Canyon fan portal. Although preliminary earth moving occurred in this area, the permittee never developed the portal. The permittee had recently surveyed the site in preparation for commencement of reclamation work in this area. In the week preceding the team's visit, the permittee submitted a reclamation plan to DOGM. The adjacent post-May 3, 1978, belt portal and supply portal were also observed.

The team also visited the main portal areas for the

Cottonwood/Wilberg Mine. Generally, the permittee constructed (1) the Wilberg portals, which are on the west side of the canyon, prior to May 3, 1978, and (2) the Cottonwood portals, which are on the east side of the canyon, after May 3, 1978.

The highwalls inventory identified 18 different highwalls at the Cottonwood/Wilberg Mine. The highwalls inventory indicated that the reclamation plans for all but two of these highwalls were deficient. DOGM will require Energy West Mining Company to revise the Cottonwood/Wilberg Mine permit to correct the permit deficiencies.

Energy West Mining Company, Deer Creek Mine. On October 1, 1997, the same persons as indicated in the Cottonwood/Wilberg Mine discussion above also accompanied the team during its field evaluation at Energy West Mining Company's Deer Creek Mine.

The team visited the main portals area. Mine operators had made several bench cuts in the steep rock slope adjacent to the coal belt line. The company representatives stated that only one of these cuts was made after May 3, 1978. The highwalls inventory indicated that all of the portal areas were created prior to May 3, 1978, and that the reclamation plans for these portals was deficient. DOGM will require Energy West Mining Company to revise the Deer Creek Mine permit to correct the permit deficiencies.

The team also visited the Rilda Canyon fan portal. The permittee developed this portal after May 3, 1978. Disturbance associated with the access road to the portal area and the portal area itself has been kept to a minimum, owing to requirements imposed by the U.S. Forest Service and DOGM and the permittee's commitment to reducing environmental effects.

Cyprus Plateau Mining Corporation, Willow Creek Mine. On October 1, 1997, Ben Grimes, Cyprus Plateau Mining Corporation, accompanied the team during its field evaluations at the Willow Creek Mine.

The team visited the main mine area for the Willow Creek Mine and the preparation plant area. At an overlook above the preparation plant area, the team viewed the post-May 3, 1978, cut-slope that was created when the road to the School House Canyon refuse pile was constructed. The permit does not require the permittee to completely eliminate this cut-slope, and it appears highly unlikely that the permittee will be able to eliminate the cut-slope using conventional backfilling and grading practices.

The team also visited the Crandall Canyon area, which has two shafts that were developed after May 3, 1978. The highwalls inventory indicated that the cuts in adjacent slopes, which were made when the shafts were developed, were to be retained under Utah's AOC alternative. After reviewing the permit and touring the site, the team found that the approved reclamation plan allows a relatively short expanse of one of the cuts to remain unbackfilled after reclamation. The team did not consider this unbackfilled cut to be a highwall that would be retained under the AOC alternative because (1) the angle of the cut was not perpendicular to the level pad at its base and instead was only slightly steeper than the undisturbed slope above the cut, and (2) the permittee had already established some trees and shrubs in the cut. For these reasons, the team revised the highwalls inventory to indicate that no highwalls will be retained in the Crandall Canyon area.

(e) Permit Reviews

The team decided not to conduct field evaluations at certain mines for which the inventory identified permit deficiencies (Canyon Fuel Company, Skyline Mine; Cyprus Plateau Mining Corporation, Star Point Mine; Genwall Resources, Crandall Canyon Mine; and White Oak Mining Company, White Oak Mine). The team briefly reviewed the permits to confirm that the inventory accurately described the permit deficiencies.

(f) Conclusions and Recommendations

Revision of Utah's April 6, 1994, Directive Tech-002 (Approximate Original Contour (AOC) Requirements). During the last evaluation period, the team found that Directive Tech-002 was not consistent with Utah's rule at R645-301-553.650.100 because it did not indicate that a highwall retained under the AOC alternative cannot be greater in length and height than the cliffs and cliff-like escarpments that were replaced or disturbed by the mining operations. During this evaluation period, DOGM revised the directive to add the length criterion.

Determination of highwall creation dates. During the last evaluation period, the team found that not all permits included maps of sufficient detail to show when the highwalls were created. Without this information, DOGM could not determine which highwalls must be completely eliminated (post-May 3, 1978) and which must only be eliminated to the maximum extent technically practical using all reasonably available spoil in the permit area (pre-May 3, 1978).

During this evaluation period, DOGM sent a survey to mine operators asking for information on highwall creation dates. Following receipt of the completed surveys, DOGM expended considerable effort in verifying the information and preparing a detailed inventory for the 97 highwalls in the State. Besides satisfying DOGM's and OSM's need for basic information on reclamation requirements and plans for individual highwalls in the State, the inventory also serves as a valuable compendium of State-wide highwall data without which the team would not have been able to make conclusions on DOGM's overall effectiveness in implementing its highwall reclamation program.

Retention of highwalls under Utah's AOC alternative. In consideration of the steep slopes, natural benches, and cliffs that exist in the coal mining regions of Utah, Utah originally developed, and OSM approved in 1982, a carefully limited exception to highwall elimination. Under the AOC alternative provision of Utah's program, a highwall need not be eliminated during reclamation if the permittee establishes and DOGM finds in writing that, among other things, the highwall replaces a pre-existing natural cliff or similar natural premining feature and resembles the structure, composition, and function of the natural cliff that it replaces.

In the 15-year period since 1982, Utah has not approved any permits allowing the retention of highwalls under the AOC alternative. Therefore, the team projects that the AOC alternative will not have much, if any, application in the State.

Highwall reclamation plan deficiencies. In the inventory, the team identified about one-fifth of the permitted mines as having deficiencies in the reclamation plans for highwalls.

In order to resolve these deficiencies, DOGM will have to require the permittees to revise their permit reclamation plans. As a first step, the team recommends that early in the 1998 oversight evaluation year DOGM prepare a prioritized schedule for requiring the permittees to revise their permits.

Post-May 3, 1978, highwall that will not be eliminated. As the result of field evaluations conducted last evaluation year, the team identified one post-May 3, 1978, highwall that will not be completely eliminated in the reclamation process. OSM and DOGM have agreed that, if the highwall were completely backfilled, it would not be stable. The team agrees that the highwall should not have been permitted for construction. The team raised this issue to DOGM and OSM administrators for possible administrative action (violation issuance).

During this evaluation year, the team also identified cut-slopes on two mines that may not be able to be completely eliminated.

Conclusion on reclamation success. The team evaluated this topic under the primary oversight objective for determining whether minesite reclamation is successful. The team concluded that minesite reclamation on a portion of one mine, and possibly two others, will not be entirely successful because highwalls and cut-slopes created there after May 3, 1978, will not be completely eliminated. Also, approximately one-fifth of the permits have reclamation plan deficiencies concerning highwall reclamation. Until the permittees revise their permits to resolve these deficiencies, the team will not be able to fully assess the degree of success of highwall reclamation in the State.

Continuation of team's review of this oversight element. The team will continue its review of this highwall elimination and retention element in oversight year 1998. The team proposes (1) to review and make suggestions to DOGM on the prioritized schedule for requiring the permittees to revise their permit reclamation plans, (2) to review any such revised permits that DOGM issues during the evaluation period, and (3) to conduct any additional field evaluations it believes would be helpful in understanding the highwall reclamation issue in Utah.

October 29, 1997

Utah Regulatory Program Oversight Evaluation
Evaluation Year 1997

Name of Element: Permitting of Coal Mine Access and Haul Roads

Team Members: Henry Austin (OSM-WRCC), Daron Haddock (DOGM), Joseph Helfrich (DOGM), and Michael Rosenthal (OSM-WRCC)

SMCRA Goal: Sections 701(28)(A) and (B)

"[S]urface coal mining operations" means -

“(A) activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: Provided, however, That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 2/3 per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities” (emphasis added).

Reason for Selection:

The extent to which coal access and haul roads must be permitted has been one of the most divisive, longstanding issues between DOGM and OSM for the Utah regulatory program.

On November 22, 1991, and April 7, 1994, OSM approved Utah's rule definitions for "affected area," "road," and "public road" on the basis that they were no less stringent than SMCRA and no less effective than the Federal regulations. Subsequently, on February 7, 1995, OSM notified Utah that it was initiating proceedings under 30 CFR Part 733 to substitute Federal enforcement of the State program, because OSM had reason to believe that violations were resulting from DOGM's failure to enforce the approved Utah regulatory program for regulating mine access and haul roads. In response, DOGM on July 3, 1995, sent a letter which included policy statements on the permitting of public roads. On July 24, 1995, OSM agreed with the policy clarification and terminated the 30 CFR Part 733 proceedings.

The Utah oversight team agrees an evaluation of this element is necessary to determine whether (1) DOGM is implementing the July 3, 1995, permitting policy in compliance with its approved program, SMCRA, and the Federal regulations, and (2) whether the policy is effective in preventing or minimizing off-site impacts by coal haul and mine access roads and in ensuring successful reclamation of coal haul and mine access roads that are permitted.

Study Focus:

The focus of this study was a permitting review followed by a minesite evaluation for new mining permits issued during the evaluation period. Horizon Coal Corporation, Horizon Mine, permit No. ACT/007/020, was approved by DOGM on October 10, 1996, and was included in this study. DOGM anticipated approving a permit amendment for a refuse area haulroad at the Canyon Fuel Company, Soldier Canyon Mine, permit No. ACT/007/018. The amendment was withdrawn by Canyon Fuel Company and therefore not evaluated as part of this study.

Planned Review:

The team members coordinated and scheduled a permit review to determine whether the Horizon Mine permit complied with DOGM's road permitting policy, SMCRA, and the Federal regulations. Following the permitting review, the team conducted a minesite evaluation.

Review Schedule:

The permit review and minesite evaluation for the Horizon Mine was conducted August 25 and 26, 1997, respectively.

Findings:

(a) Applicable Utah Rules, Federal Regulations, and SMCRA Provisions

The requirements of the applicable Utah rules, Federal regulations, and SMCRA are discussed in detail in the OSM Federal Register notices dated November 22, 1991, and April 7, 1994. In particular, the 1991 notice includes extensive discussions of the Federal requirements and court decisions concerning the regulation of roads.

(b) Policy Statement

DOGM's policy is set forth in its July 3, 1995, letter.

(c) Permit Findings

Permit review for the Horizon Coal Corporation, Horizon No. 1 Mine, Permit No. Act/007/020, was conducted by the Team on August 25, 1997, at the DOGM's Salt Lake City office. This was the only evaluation conducted under the road permitting element during this evaluation year. As indicated above, the permit was approved by DOGM on October 16, 1996. The permit was transferred to K & K Holding Company, Inc., effective July 11, 1997. The previous permittee and mine names remain the same.

Specific DOGM correspondence, technical analysis of the permit application package, the permit decision document, and approved permit which we reviewed and/or photocopied included the following:

December 28, 1995, Draft Technical Review and Analysis, pg.51, **RELOCATION OR USE OF PUBLIC ROADS**; and pg.89, **ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES**.

September 20, 1996, Final Technical Analysis, pg.47, **RELOCATION OR USE OF PUBLIC ROADS**; pg.56, **ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES**; and pg. 83, **RECLAMATION PLAN: ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES**.

Approved permit, Chapter 3, Operation and Reclamation Plan, pg.3-9, Roads (dated May 1995); pg.3-5, Roads (dated June 16, 1997, and incorporated July 11, 1997);

APPENDIX 3-1, ROAD AND HAULAGE LETTERS(dated September,17,1996);
APPENDIX 3-7,RECLAMATION BOND ESTIMATE(September,17,1996);

(c) Permit Findings (continued)

Plate 3-1, Surface Facilities (May 1992 & June 12,1997);
Plate 3-4, Access/Haulage Road Design (June 13,1996); and Chapter 1, Introduction, Plate 1-1, Permit Boundary(Aug. 10,1996)

The Final Technical Analysis (final TA) noted above (September 20, 1996) at **Road Systems** provides the DOGM description of the one primary road and two ancillary roads proposed for the mine in the permit application package. In paragraph 2 at "A plan view of the Main Access Road is shown on Plate 3-1 and designs are shown on Plate 3-4. This road will be approximately 1200 feet long and will go from Carbon County Road 290 (formerly Utah State Highway 139), at the mouth of the canyon, to the coal stockpile area." DOGM is describing the Consumers Road which is a county owned and maintained road that connects County Road 290 with Clear Creek, UT. The DOGM description does not clarify that the "...1200 feet long and will go from Carbon County 290....." as described above is **NOT** a permitted access/haul road. As stated above, the plan view in Plate 3-1 depicts the entire 1200 feet of access/haul road beginning at County Road 290 and ending at the Upper Haul Road in the mine facility disturbed area. Plate 3-4 only provides designs for the Upper & Lower Haul Roads identified within the disturbed area of the mine and does **NOT** include any designs for the "1200 feet long" access/haul road described in the final TA. The 1200 feet long access/haul road as described in the final TA is not within the approved disturbed area for the mine as shown on Plate 3-1 nor is it discussed in Appendix 3-7, Reclamation Bond Estimate. The 1200 feet long acces/haul road is depicted within the permit boundary on Plate 1-1 Permit Boundary. The information available in the permit application package and final TA does not clearly describe why the 1200 feet long access/haul road described is not within the approved disturbed area or required to be permitted.

Chapter 3 of the approved permit at Appendix 3-1, ROAD AND HAULAGE LETTERS, contains several letters from Carbon County, UT, to Horizon Coal Corporation (Horizon) concerning both the realignment and maintenance of Consumers Road, and references to the use and maintenance of Carbon County Road 290. Carbon County writes in their August 12, 1996, letter to Horizon that "Horizon Coal is granted permission to realign the Consumers Road to facilitate construction of the Horizon No. 1 Mine surface improvements. It is the responsibility of Horizon Coal to construct all said realignments and it is further the responsibility of Horizon Coal to maintain these changes and improvements as long as the operation continues and beyond that as the reclamation and closures of the operations may occur.

(c) Permit Findings (continued)

It will also be necessary to identify by a written legal description the new road alignment. This written legal description must then be deeded to the county to ascertain that no "breaks" in the continuous ownership of the roadway occur."

Carbon County subsequently writes to Horizon in two letters both dated August 15, 1996, that the Consumers Road "...has historically been a county owned and maintained road and will continue to be so." and "Carbon County would agree to allow the use of the roads mentioned herein, and continue to maintain them.

Carbon County would require Horizon Coal Corporation to apply, at their expense, a dust suppression control substance." The roads referred to are Carbon County Road 290 and the Consumers Road. These letters in the permit application package appear to conflict with the final TA at page 47 "No public road will be relocated by this operation." and page 83 "This road will follow its present route and will be restored to approximately its present condition and configuration."

(d) Field Evaluation

The field evaluation was conducted by the Team on August 26, 1997. Wm. J. Malencik and Henry Austin returned to the mine on August 27 to conduct additional inspection work. According to Ms. Vicky Bailey, EarthFax Engineering (Horizon consultant), the realignment work done to Consumers Road was contracted by Carbon County and continuing maintenance for the road is the responsibility of Carbon County. Horizon's only road maintenance obligation is the periodic application of a suitable dust suppressant on the relocated portion of the Consumers Road (discussions at the mine on August 26, 1997; and telephone discussion of September 16, 1997). Ms. Bailey also indicated Carbon County intended to gravel the relocated portion of the Consumers Road and that work was not yet complete on the upper end of the road realignment. Ms. Michelle Lee, Carbon County Roads Department, indicated to me via telephone discussion on October 3, 1997, that the realignment/reconstruction of the Consumers Road was a joint effort between Horizon and Carbon County. She thought that Horizon provided the contractor to do the work and Carbon County supplied materials (gravel, etc.)

Ms. Lee also indicated a Carbon County Commissioners meeting was held on October 1, 1997, during which road right of way land exchanges were completed between Carbon County and the surface owner of the Consumers Road relocation area; and she believed that road maintenance agreements were discussed and/or finalized for both Carbon County Road 290 and Consumers Road. It is not clear from the field evaluation and follow-up correspondence which parties are responsible for the Consumers Road realignment and maintenance for Carbon County Road 290 and Consumers Road.

(d) Field Evaluation (continued)

We observed/discussed/photographed the areas affected for the realignment of the Consumers Road and the relationship of Consumers Road to County Road 290. Areas were affected outside the approved disturbance area boundary, but within the approved permit area, to facilitate the road realignment. According to Ms. Bailey these areas were affected by agreement between the surface landowner and Carbon County. Horizon did not directly participate in disturbing these areas and has not utilized them to facilitate mining nor do they intend to do so. The approved disturbed area boundary is clearly marked.

We observed/discussed multiple use of both the Consumers Road and County Road 290 during the inspection. The current predominant use and resulting impact to both roads appears to be from logging trucks. Ms. Bailey estimated current logging haulage to be approximately 27 loads per day (9 trucks x 3 loads each per day). We observed both logging trucks and public use of both roads during the inspection. Surface facilities for the mine are under construction and coal production/truck haulage has not begun.

(e) Conclusions and Recommendations

As noted above, DOGM's description of the Main Access Road (Consumers Road) found in the final TA does not clearly establish whether this road is a part of the permitted operation. Letters from Carbon County to Horizon in APPENDIX 3-1 of the permit application package documenting the proposed Consumers Road realignment and maintenance criteria present conflicting information concerning the Consumers Road realignment and maintenance responsibilities. Discussions with representatives of Horizon and Carbon County Roads also provided conflicting information concerning the Consumers Road realignment and maintenance. Nowhere in the permit decision document nor the approved permit text can be found a discussion concerning whether the impacts from mining on the relocated portion of Consumers Road will be significant under the definition of "affected area" and "surface coal mining operations."

The Team concludes that the permittee (operator) has not made the following demonstrations required in DOGM's July 3, 1995, policy statement:

- (b) are the primary coal haulage roads maintained with public funds or in exchange for taxes or fees,
- (c) were primary coal haulage roads constructed or reconstructed in a manner similar to other public roads of the same classification, and
- (d) will impacts from mining on primary coal haulage roads be significant under the definition of "affected area" and "surface coal mining operations."

(Conclusions and Recommendations continued)

As stated in DOGM's policy set forth in its July 3, 1995, letter noted above at Findings: (b) Policy Statement, "If the operator can demonstrate to the satisfaction of the Utah regulatory authority that a particular road is not included in the definition of "surface coal mining operations" as explained in the pertinent preambles to the publication of the implementing federal rules and as interpreted by the courts, then Utah will not regulate the road."

The Team concludes DOGM has not made complete and accurate findings as required in its July 3, 1995, policy statement concerning permitting of coal mine access and haulroads.

The Team recommends that DOGM make complete and accurate written findings in accordance with their July 3, 1995, policy statement for the Consumers Road as follows:

(b) are the primary coal haulage roads maintained with public funds or in exchange for taxes or fees,

(c) were primary coal haulage roads constructed or reconstructed in a manner similar to other public roads of the same classification, and

(d) will impacts from mining on primary coal haulage roads be significant under the definition of "affected area" and "surface coal mining operations."

DOGM shall finalize the written findings above within 90 days of OSM finalization/distribution of the 1997 Utah Annual Evaluation Report.

The Team cannot assess whether DOGM acted to prevent off-site impacts relative to the permitting of coal mine access and haul roads at the Horizon No. 1 Mine until DOGM provides the written findings required above.

UTAH - HIGHWALL INVENTORY (Page 1 of 10) last updated October 20, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/007/001, WHITE OAK MINING COMPANY, WHITE OAK MINE				
White Oak #1 Mine Portals	Pre-SMCRA, 1976	Plate R645-301-527, Figure R-12, pp. R-10 through R-17. Information in the text of the plan is poor but does indicate that the slopes above the highwalls have been reduced to accommodate reclamation.	Elimination, deficient.	Active
White Oak #2 Mine Portals	Pre-SMCRA	Plate R645-301-527, Figure R-12, pp. R-10 through R.	Elimination, deficient.	Active
Loadout Area Portals	Pre-SMCRA	Plate R645-301-527, Figure R-12, pp. R-10 through R. Elimination to the extent possible, some cuts may remain above the portal faceups under R645-301-553.500 as needed. These are old, pre-SMCRA mine openings which were not used during current permitted operations. Operator is proposing to re-enter the mine in this area, but with new portals.	Partial retention, R645-301-553.500, deficient.	Sealed/Caved
ACT/007/004, AMAX COAL COMPANY, CASTLE GATE MINE				
Adit #1 Area	Pre-SMCRA, 1888	Exhibit 3.5-1, Section 3.5, pp. 3.5-9. Portion of portal collar to be left as historically significant.	Partial retention, R645-301-553.500,	Pending reclamation.
Hardscrabble Canyon Area	Pre-SMCRA	Exhibit 3.3-1, Section 3.3, pp. 3.3-6, 3.3-38, Figure 3.3-3 on pp. 3.3-72, and revised April 1996 reclamation plan. Elimination in most areas and Retention of two highwall areas (R645-301-553.500) No 4 mine conveyor belt portal highwall and No. 5 Mine where portals were extended beneath a large natural cliff.	Retention, R645-301-553.500.	Currently undergoing active reclamation.
Sowbelly Canyon Area	Pre-SMCRA	Exhibit 3.2-1, Section 3.2. All highwalls associated with mine openings are to be eliminated by backfilling. Some cut-slope areas not related to mine openings remain.	Elimination.	Phase I bond release, 1/30/97.
ACT/007/005, CANYON FUEL COMPANY, SKYLINE MINE				
Mine #1 Portals	Post-SMCRA, 1980	Map 3.2.2.1 Appears that all portal highwalls for #1 Mine will be eliminated to the extent possible and that slopes above the highwalls are to be reduced to maintain stability. Plan needs to more concisely address highwall elimination to demonstrate AOC.	Elimination, deficient	Active
Mine #3 Portals	Post SMCRA, 1980	Map 3.2.1-1 Plans are deficient regarding discussion of highwall elimination. Highwall areas reduced to 1:1 slopes above portals in rock outcrop and will remain as part of final reclamation but does not indicate that the final configuration effectively eliminates the highwall during reclamation.	Elimination, deficient.	Active



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

File

Michael O. Leavitt
Governor
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Executive Director
James W. Carter
Division Director

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Salt Lake City, Utah 84114-5801
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801-359-3940 (Fax)
801-538-7223 (TDD)

October 29, 1997

Mr. James F. Fulton, Chief
Denver Field Division
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202

Re: Request for Extension of Time for Utah's Submittal of the Water Replacement Rules and a Response to the OSM 732 Letter of June 16, 1997

Jms
Dear Mr. Fulton:

The Division has discovered that there will be additional time required to draft and adopt rules which are consistent with the Energy Policy Act and which address Water Replacement at coal mines, further, that the items listed in the above-cited "732" letter will also need additional consideration before rulemaking can be performed.

This letter therefore, requests that Utah be granted until March 31, 1998 to submit its final Water Replacement Rules and until April 30, 1998 to submit the various rules in response to the "732" letter. Thank you for your consideration of this request. Please contact me if there are questions or a need for more information.

Sincerely,

Lowell P. Braxton
Lowell P. Braxton
Acting Director

dr
cc: M. Wright
P. Grubaugh-Littig
R. Daniels
D. Haddock
C. Allred

h2orep&.732



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

CPM

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September 26, 1997

Kathy Karpan, Director
Office of Surface Mining
U. S. Department of Interior
1951 Constitution Avenue NW
Room 233-SIB
Washington, DC 20240

Re: Possible Trip to Utah, November, 1997

Dear Ms. ^{Kathy}Karpan:

I'm sorry we weren't able to accommodate your suggested dates for a visit to Utah. I have discussed an alternative proposal for a Utah visit for you with Olivia, and thought I would provide you with a little more information. On Thursday, November 13 the Hydrology Outreach Committee is sponsoring a one-day seminar that will discuss multiple uses of water in Carbon and Emery Counties. (Yes, Utah has a Carbon County, too!)

The Hydrology Outreach Committee is an outgrowth of the Division of Oil, Gas and Mining's efforts to promote understanding of the effects of coal mining on the water resources of Carbon and Emery Counties. The Committee is comprised of local citizens, individuals from the coal industry and state and federal governmental entities, and has been instrumental in promoting dialogue at the local level. I have attached a draft Seminar agenda.

OSM has chosen the Emery County Public Lands Committee as a recipient for an OSM Citizen Partnership Award under the category of Public Participation or Grassroots Organization (I'm not sure which). This award has not been formally presented, but this could be done at the luncheon portion of the November 13th Seminar, if your schedule would accommodate this. I don't believe any other arrangements have been made to present the award, but will copy Rick Seibel with this letter to assure all bases have been tagged.

The award presentation would give you exposure to the environmental and citizen interest side of the Utah Coal Regulatory Program. We could also arrange a coal mine tour for the afternoon of the 13th, and possibly an evening meeting with Utah Coal operators in Price, Utah.

Page 2

Ms. Kathy Karpan
September 26, 1997

If you were to arrive in Salt Lake City on the evening of November 12, we could introduce you to our Coal Regulatory Program staff on the morning of the 13th, drive to Emery County for the Seminar, stay the evening in Price, and have you back in Salt Lake City by mid-morning of the 14th to accommodate other travel needs. We would also be pleased to expand this schedule to show you more Utah coal and AML activity. In the event that you would like to discuss this further, please contact Mary Ann Wright or me in that regard.

Sincerely,



Lowell P. Braxton
Acting Director

dr

Enclosure

cc: R. Seibel

M. Wright

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FREE

ONE DAY SEMINAR

FREE

Multiple Uses of Water in Emery and Carbon Counties

Thursday, November 13, 1997

Museum of the San Rafael, Castle Dale, Utah

Tentative Agenda

- 8:00 - Registration and Continental Breakfast
- 8:30 - Welcome and Introduction to the day - Luci Malin, DOGM
- 8:40 - History of Water Use in the West
- 9:00 - Panel Discussion: Multiple Use Defined - Moderator - Janette Kaiser, USFS
 - Overview - Janette Kaiser
 - Agriculture and Grazing - Craig Johannsen, Emery County Water Users
 - Mining and Power Generation - Blake Webster, Pacificorp
 - Recreation - Emery County Planner
 - Oil and Gas - Gil Hunt, UIC, DOGM
 - Culinary Water - Darryl Leamaster
 - Discussion and Closure - Janette Kaiser
- 10:30 BREAK
- 10:50 Geology of the Wasatch Plateau and Book Cliff areas - Dr. Tom Morris, BYU
- 11:20 Hydrology of the Wasatch Plateau and Book Cliff areas - Dr. Alan Mayo, BYU

11:50

LUNCH

*provided by the Emery County Water Users & Cattlemen's Association
(Only those pre-registered are guaranteed a FREE lunch!!)*

- 1:00 Invited Papers
 1. Dr. Mayo: How Old Is Water? Using Ages of Water to Trace Origins
 2. J. Mark Humphrey - Telemetric Water Data
- 2:10 BREAK
- 2:30
 3. Spring Management
 4. Bob Campbell - Impacts of Conversion of Aspen to Mixed Conifer Forest and Effects on Water Availability
- 3:30 The Future of Emery and Carbon Counties
- 3:45 Closure & Where Do We Go From Here? - Liane Mattson, USFS

*Sponsored by the Hydrology Outreach Committee
a local, state, federal and industry consortium examining the interrelationships of mining and water*

*****clip here*****

**VIDEOTAPE OF OVERSIGHT HIGHWALL RECLAMATION EVALUATIONS CONDUCTED
AT UTAH MINES ON SEPTEMBER 30 AND OCTOBER 1, 1997**

1. Andalex Resources, Centennial Mine.

Although Michael Glasson, Andalex Resources, indicated that some portal highwall disturbance occurred prior to May 3, 1978, the permit nevertheless indicates that all of the highwalls were created prior to May 3, 1978. Unless the permittee demonstrates that disturbance occurred prior to May 3, 1978, and the permittee accordingly revises the permit, all of these highwalls will continue to be considered post-May 3, 1978, highwalls and will have to be completely eliminated during reclamation.

9998 Aberdeen Portals
0040 Apex Portals
0074 Upper Pinnacle Portals
0080 Lower Pinnacle Portals
0094 Aberdeen Portals

2. Consolidation Coal Company, Emery Deep Mine.

The permittee developed the shaft air intake portal in 1978. Because it is a shaft, no highwalls are associated with it. All of the highwalls were created prior to May 3, 1978. The highwalls are small and were created in the coal seam at the base of the natural cliffs. The permit calls for completely backfilling these portals.

0120 Main facilities and portals area
0150 Main portal
0167 Main portal
0172 Air intake portal
0192 Shaft air intake portal

Mine # Interagency
File 1997
Record # _____
Doc. Date Videotape in
Recd. Date Expandable

3. Energy West Mining Company, Cottonwood/Wilberg Mine.

Generally, the permittee created the portal highwalls for the Cottonwood part of the mine after May 3, 1978, and the portal highwalls for the Wilberg part of the mine before May 3, 1978.

- 0222 Disturbance for proposed Cottonwood Canyon portal, which was never constructed
- 0226 Energy West Mining Company, Trail Mountain Mine facilities, which are adjacent to the Cottonwood Canyon portal disturbance area
- 0233 Cottonwood Canyon portal disturbance area
- 0317 Bull moose just downstream from the Trail Mountain Mine and Cottonwood Canyon portal disturbance area

In the area where most of the facilities and portals for the Cottonwood/Wilberg Mine are located, the Wilberg and Cottonwood parts of the mine are respectively located on the west side of the canyon (backlit by sun) and the east side of the canyon (reflecting the sunlight).

- 0322 Cottonwood
- 0327 Wilberg
- 0332 Cottonwood
- 0353 Wilberg
- 0370 Cottonwood
- 0372 Wilberg
- 0379 Cottonwood
- 0389 Wilberg
- 0395 Cottonwood
- 0406 Emery Power Plant in distance

4. Energy West Mining Company, Deer Creek Mine.

Only one cut in the slope above the coal belt line was created after May 3, 1978. All other portal disturbances occurred prior to May 3, 1978.

- 0410 Deer Creek main portals
- 0425 Steep cut-slope above coal belt line
- 0435 Facilities area adjacent to main portals
- 0444 Rilda Canyon portal area

5. Cyprus Plateau Mining Corporation, Willow Creek Mine.

The main portal area for the Willow Creek Mine was created prior to May 3, 1978. However, the permit shows that the permittee will completely backfill it during reclamation.

Other areas adjacent to the main portal area have a mixture of pre- and post-May 3, 1978, disturbances.

- 0479 Conveyor tunnel
- 0494 Main portal area
- 0530 Natural cliffs
- 0534 Cemetery
- 0552 Main portal area

The preparation plant area has a mixture of pre- and post-May 3, 1978, disturbances.

The permit does not require the permittee to completely eliminate the post-May 3, 1978, cut-slope for the road to the School House refuse pile, and it appears unlikely that the permittee will be able to eliminate the cut-slope using conventional backfilling and grading practices.

- 0558 Preparation plant area
- 0575 School House refuse pile
- 0580 Cut-slope for the road to the School House refuse pile

The disturbances in the Crandall Canyon area occurred after May 3, 1978.

- 0588 Cuts in slopes adjacent to shafts
- 0605 Road cuts upslope from shaft area (not a part of Willow Creek permit)
- 0618 Cuts in slopes adjacent to shafts
- 0621 Road cuts upslope from shaft area (not a part of Willow Creek permit)
- 0626 Road cuts downslope from shaft area (a part of Willow Creek permit)
- 0628 Shaft
- 0630 Cut in slope adjacent to shaft
- 0664 Upslope road cuts (not a part of Willow Creek permit)

UTAH - HIGHWALL INVENTORY (Page 2 of 10) last updated October 20, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
South Fork Ventilation Portals	Post-SMCRA, 1992	Map 3.2.1-1 Plans are deficient regarding discussion of highwall elimination. Drawings indicate complete elimination of highwall above the portals by backfilling	Elimination, deficient.	Active
ACT/007/006, CYPRUS PLATEAU MINING CORPORATION, STAR POINT MINE				
Lion Deck Portal Area	Under Review. Portal area highwalls are Pre-SMCRA but may have been re-affected by mining expansion.	Maps 542.200a, b and c, 1976 flyover photos and topographic maps (attached to questionnaire). The Division has reviewed the plan and identified deficiencies regarding highwall elimination as part of those deficiencies in the plan. Evaluation of this mine site will occur following submittal of information required under those deficiencies. Under Review. Plans are deficient regarding discussion of highwall elimination. Due to geomorphology, complete elimination of highwalls will most likely not be feasible. May qualify under "re-mining" consideration for highwall retention or as cliff replacement in others. Mitigation may require elimination of highwalls to the extent they were re-affected if post-SMCRA activities occurred. Highwalls which are pre-SMCRA and not re-affected may require more information under R645-301-553.500 to be approvable.	Retention, deficient.	Active.
#1 Mine Portals	Pre-SMCRA	See above	Retention, deficient.	Active.
#2 Mine Portals	Pre-SMCRA, may have re-affected highwall Post-SMCRA	See above	Retention, deficient.	Active.
ACT/007/007, SUNNYSIDE COAL COMPANY, SUNNYSIDE MINE				
Entre Complex	Pre-SMCRA, all openings. 37 Portals, 9 Shafts	Pending designs and construction under bond forfeiture by the Division.	Some highwall areas may be retained based on stability analysis and based on availability of funds through bankruptcy.	All operations are currently inactive/abandoned. Reclamation activity is scheduled for 1997-1999.
ACT/007/011, UNITED STATES FUEL COMPANY, HIAWATHA COMPLEX				
King 4 Intake Portals	Pre-SMCRA, 1975.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 4 Belt & Return Portals	Pre-SMCRA, 1975.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 5 Portals	Highwall Faceup, Pre-1978. Portals Driven in spring of 1978.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 6/King 3 Intake & Return Portals	Pre-SMCRA, 1947.	Plate V-12, South Fork Lower Bench, Chapter II Soils, pp. 72-76.	Partial retention, R645-301-553.500.	Sealed.

UTAH - HIGHWALL INVENTORY (Page 3 of 10) last updated October 20, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Hiawatha 1 & 2, King 1 & 2, South Fork "B" and "A" Seams	Pre-SMCRA, within permit area but not re-affected under current permit	Pre-Act	N/A	Sealed.
ACT/007/012, NEVADA ELECTRIC INVESTMENT COMPANY, WELLINGTON PREPARATION PLANT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/013, INTERMOUNTAIN POWER AGENCY, HORSE CANYON MINE				
North Fan	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp 6 & 7, Chapter 4, Section 4.6, pp IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Woodward East and West	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Carlson East and West	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Rock Tunnel	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Main Intake North	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
South Fan	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Lila Canyon East and West	Pre-SMCRA, before 1953.	Chapter 2, Section 2.8, pp. 11-14. no real highwall associated with this breakout.	Reclaimed. Natural rock fall covers portal area.	To be left "as-is", Phase I Bond Release, Feb. 5, 1997.
Main Intake South	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Elimination.	Pending Reclamation
Manway	Pre-SMCRA, before 1953	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16	Elimination.	Pending Reclamation
ACT/007/016, MOUNTAIN COAL COMPANY, GORDON CREEK 2, 7 & 8 MINES				
Portal Access #2 Mine	Pre-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall remnants to occur due to spoil availability and stability.	Partial Retention. R645-301-553.500.	Pending Reclamation.
Old #2 Mine Fan Portal Access	Pre-SMCRA	Volume 1, Plate 3-2, Plate 3-7B, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall remnants to occur due to spoil availability and stability.	Partial Retention, R645-301-553.500.	Pending Reclamation.

UTAH - HIGHWALL INVENTORY (Page 4 of 10) last updated October 20, 1997

OVERSITE INVENTORY WPD

AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Portal Access to #7 Mine	Post-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Unable to completely backfill due to spoil/stability issues. Resolved by joint approval with OSM regarding reclamation designs in 1995. Portion of highwall is retained but stable.	Partial Retention.	Reclaimed, Pending Bond Release.
Portal Access to #8 Mine	Post-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall has been completely backfilled.	Eliminated.	Reclaimed, Pending Bond Release.
ACT/007/017, MOUNTAIN COAL COMPANY, GORDON CREEK #3 AND #6 MINES				
#3 Mine Portal	Pre-SMCRA, 1975.	Reclaimed. Refer to TDN 94-020-179-002 and letter dated 11/10/94.	Eliminated.	Reclaimed, Phase I Bond Release, 6/26.87, Phase II Bond Release, 2/13/95.
#6 Mine Portal	Pre-SMCRA, 1975.	Reclaimed. Refer to TDN 94-020-179-002 and letter dated 11/10/94.	Elimination.	Reclaimed, Phase I Bond Release, 6/26.87, Phase II Bond Release, 2/13/95.
ACT/007/018, CANYON FUEL COMPANY, SOLDIER CANYON MINE				
East Portal Area	Post-SMCRA, circa 1990	Volume 1, Chapter 5, section 5.53 through 5.53-24. Exhibit No. 7.60a, Volume 7. Highwalls shown to be backfilled as per drawings.	Elimination.	Active.
West Portal Area	Pre-SMCRA	Volume 1, Chapter 5, section 5.53 through 5.53-24. Exhibit No. 7.60a, Volume 7. Highwalls shown to be backfilled as per drawings.	Elimination.	Active.
ACT/007/019, ANDALEX RESOURCES, CENTENNIAL PROJECT				
Apex Portals	Post-SMCRA, 1982.	Plates 14 and 15, Section R645-301-532.200 of the plan. Plan shows only partial backfilling at the portals.	Retention, deficient.	Active.
Pinnacle Portals	Post-SMCRA, 1980.	Plates 14 and 15, Section R645-301-532.200 of the plan. Plan show only a portion of the highwall to be backfilled.	Retention, deficient.	Active.
Aberdeen Portals	Post-SMCRA, 1989.	Plates 14 and 15, Section R645-301-532.200 of the plan.	Retention, deficient.	Active.
Lower Pinnacle Portals	Post-SMCRA, 1980	Plates 14 and 15, Section R645-301-532.200 of the plan.	Retention, deficient.	Active.
Left Fork Fan Portal	Post-SMCRA, 1995	Plates 14 and 15, Section R645-301-532.200 of the plan.	Elimination, deficient. plans	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/007/020, HORIZON COAL COMPANY, HORIZON MINE				
Fan Portal	Pre-SMCRA, Re-opened for new permit.	Section 3.5.4.1, pp. 3-32, Plate 3-7.	Elimination.	Currently being re-activated.
Hiawatha Seam Portal	Pre-SMCRA, Re-opened for new permit.	Section 3.5.4.1, pp. 3-32, Plate 3-7.	Elimination.	Currently being re-activated.
Other Portals within Permit Area	Pre-SMCRA	See Map attached to questionnaire response (Plate 3-7).	Reclaimed by AMR Program	Not Re-Affected by current mining operations.
ACT/007/021, NORTH AMERICAN EQUITIES, BLAZON MINE #1				
# 1 Mine Portals	Post-SMCRA, 1980 3 portals	Reclamation Plan pp.18-35	Partial Retention	Phase I Bond release approved by Board Order on 2/28/91. Site is currently abandoned and under bond forfeiture
ACT/007/022, SAVAGE INDUSTRIES, SAVAGE COAL TERMINAL				
Loadout Facility	No Portals		No Highwalls	
ACT/007/033, ANDALEX RESOURCES, WILDCAT LOADOUT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/034, CANYON FUEL COMPANY, BANNING SIDING LOADOUT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/035, SUNNYSIDE COGENERATION ASSOCIATES, SUNNYSIDE REFUSE AND SLURRY				
Refuse Recovery Facility	No Portals		No Highwalls	
ACT/007/038, CYPRUS PLATEAU MINING CORPORATION, WILLOW CREEK MINE				
Crandall Canyon Area	Post-SMCRA, 2 Shafts	Exhibit 20, Volumes 14, 14A, and 14B. See revised reclamation plan, Exhibit 3.7-7, Section 3.7, Appendix 3.7U.(AMAX Plan) Slopes adjacent to shafts were cut in rock to accommodate surface facilities. Portions of these cuts will remain following reclamation but are part of cliff-forming members in the canyon.	Elimination	Inactive.
Gravel Canyon Area	Pre-SMCRA, No Openings	Section 3.6, Exhibit 3.6-1, Exhibit 19, Volume 13B.	No Highwalls.	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Preparation Plant Area	Mixed Pre-SMCRA and Post-SMCRA disturbances.	Section 3.4, Exhibit 3.4-1, Exhibit 19, Volume 13.	No Highwalls.	Active.
Willow Creek Area	Mixed Pre-SMCRA and Post-SMCRA disturbances. Portal Faceup area is Pre-SMCRA, 1976.	Section 5.4, Volume 3. Map 18A, Volume 6. Portal Faceup area was reclaimed under the AMR program prior to new permitting action. Plan calls for backfilling the highwall to the same extent that the highwall was previously backfilled during AMR reclamation.	Elimination.	Active.
Conveyor Tunnels	Pre-SMCRA	Tunnels were initially excavated pre-SMCRA as railroad tunnels. Operator has re-opened these tunnels and used them for conveyors from the mine facilities to the loadout facilities. Reclamation of these facilities is discussed in the reclamation backfilling and grading plan	Not Applicable.	Active.
PRO/007/039, CANYON FUEL COMPANY, DUGOUT CANYON MINE				
Under Permit Application		Not yet permitted		
ACT/015/002, WESTERN STATES MINERALS CORPORATION, J. B. KING MINE				
Mine Portal Area	Pre-SMCRA, 1930's. 1 Portal.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated	Reclaimed, Phase I Bond Release, 5/20/86.
ACT/015/004, MOUNTAIN COAL COMPANY, HUNTINGTON CANYON #4 MINE				
Mine Portal Area	Pre-SMCRA, 1940's. 3 Portals.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated.	Reclaimed, Phase I Bond Release, 11/10/86, Phase II Bond Release, 1/30/96.
ACT/015/007, CONSOLIDATION COAL COMPANY, HIDDEN VALLEY MINE				
Portal Faceup Area	Post-SMCRA, 1980.	Reclaimed Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991.	Eliminated.	Reclaimed, Phase I Bond Release, 7/17/88.
ACT/015/009, ENERGY WEST MINING COMPANY, TRAIL MOUNTAIN MINE				
Trail Mountain Fan Portal	Pre-SMCRA, modified and extended highwall area in 1993.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Diesel Roadway Portal	Post-SMCRA, 1993	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Belt Portal	Pre-SMCRA, modified in 1993.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Return Portals adjacent to Belt Portal	Pre-SMCRA, Collar added in 1994.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Portals, old	Pre-SMCRA	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Sealed.
Return Entry	Post-SMCRA, 1991.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
ACT/015/015, CONSOLIDATION COAL COMPANY, EMERY DEEP MINE				
Main Portal Area	Pre-SMCRA, 1945	Chapter III, Plate III-8 Portals are located at the base of a natural cliffs.	Elimination	Operations are currently in temporary cessation.
4 East Portals	Proposed.	Plans approved for 4 East Portal construction in 1990 but have not been constructed	Elimination.	Proposed.
ACT/015/017, ENERGY WEST MINING COMPANY, DES-BEE-DOVE MINE				
Deseret Mine Portals	Pre-SMCRA, 1948-1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Beehive Mine Portals	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Little Dove Mine Portals	Pre-SMCRA, April 1977	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Deseret: Stump Flat Breakout	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	Sealed, no highwall associated with breakout.
Beehive: 10 th East Breakout	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	Sealed no highwall associated with breakout
ACT/015/018, ENERGY WEST MINING COMPANY, DEER CREEK MINE				
Deer Creek Main Portals	Pre-SMCRA, 1970 3 Portals	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Belt Portal	Pre-SMCRA, 1970 1 Portal	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Main Fan Shaft	Interim, August, 1977 1 Shaft	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Old McKinnon Fan Portals	Pre-SMCRA, pre-1970's 2 Portals	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Portals are sealed and backfilled, highwall backfilling pending final reclamation of active operations.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
9 th East Portals above Wilberg Mine	Interim, May, 1977 3 Portals	Volume 2, pg. 4-5 thru 4-7.	No Highwall associated with openings.	Active
9 th East Portals, Meetinghouse Canyon	Post-SMCRA, 1986 2 Portals	Volume 2, pg. 4-5 thru 4-7.	No Highwall associated with openings.	Active
Rilda Canyon Breakouts	Post-SMCRA, 1995 2 Portals	Volume 2, pg. 4-5 thru 4-7.	Elimination	Active
ACT/015/019, ENERGY WEST MINING COMPANY, COTTONWOOD/WILBERG MINE				
Wilberg Mine Fan	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Wilberg Fan Portal	Post-SMCRA, 1978-1979.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Belt Portal, Wilberg	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Intake Portal, Wilberg	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Underground Offices	Pre-SMCRA, 1975-1976.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Old Portals, Shop Area	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Old Portals, Water Tank	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Portals, Wilberg, before mine fire	Interim, May, 1977.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Mine Access Tunnel, Cottonwood	Post-SMCRA, 1982-1983.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Intake Portals, Cottonwood	Post-SMCRA, 1982, 1985	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Fan Access Tunnel	Post-SMCRA, 1982-1983.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Fan Portal, Cottonwood	Post-SMCRA, 1984	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Belt Portal, Cottonwood	Post-SMCRA, 1984	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Canyon Portal	Post-SMCRA, 1995.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Canyon Fan Portal	Post-SMCRA, 1995.	Volume 2, pg. 4-2 thru 4-3, 4-4.1. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Cottonwood Canyon Fan Portal Faceoff	Post-SMCRA, 1980.	Volume 2, pg. 4-2 thru 4-3, Volume 6, 4-6, 4-7, 3-14, Fig. 1, Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Miller Canyon Breakouts	Post-SMCRA, 1981/	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	No highwall associated with openings.	Sealed
Channel Canyon Breakouts	Post-SMCRA, 1989.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire)	No highwall associated with openings	Sealed
ACT/015/021, CO-OP MINING COMPANY, TRAIL CANYON MINE				
Portal Area	Pre-SMCRA, 1047	Reclaimed Refer to ALJ decision dated 6/6/94	Eliminated	Reclaimed, Phase I Bond Release, 7/18/94, Phase II Bond Release, 1/31/96
ACT/015/025, CO-OP MINING COMPANY, BEAR CANYON MINE				
Hiawatha Intake	Post-SMCRA, after May 3, 1978	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active
Hiawatha Belt	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Intake	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 2-5.	Elimination.	Active.
Blind Canyon Belt	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Fan	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pg. 3-72.p. 3-72 through 74, Plate 3-2E.	Elimination.	Active.
Bear Canyon Fan	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Fan #2	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3 6.4.2, pp 3-72 through 74, Plate 2-5	Elimination	Active
ACT/015/032, GENWAL RESOURCES, CRANDALL CANYON MINE				
Portal Area - North Side	Pre-SMCRA, 1940's Re-activated in 1983, 4 Portals	Plate 5-3 Operator has submitted revised mine plan information regarding highwall elimination as an amendment to the plan,. Currently under review by the Division as Amendment 97A.	Deficient, not Discussed in Plan.	Active.
Portal Area - South Side	Proposed, Not yet constructed	Refer to Crandall Creek Culvert Amendment Complete highwall elimination proposed in the plan	Elimination.	Proposed.
PRO/017/001, GARFIELD COAL COMPANY, DAVIES COAL MINE				
Under Permit Application		Not yet permitted.		Proposed.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/041/002, CANYON FUEL COMPANY, SUFCO MINES				
SUFCO Mine Area	Pre-SMCRA	Appendix 5-2, Volume 6 describes cutslopes. Appendix 5-2, Plates 1 and 2 provide locations and cross sections. Reclamation plan are found in Volume 2, Chapter 5 Sections 5.4.2.2, 5.5.3.1, and 5 5 3 6 and Volume 6 Appendix 5-2, Section 5.0.	Retention, R645-301-553 500	Active.
ACT/041/005, BHP PETROLEUM AMERICAS, KNIGHT MINE				
Main Portals Area	Fall, 1977 3 Portals	Reclaimed under Interm Regulations in 1987	Complete Elimination, upheld in ALJ hearings. Cut slopes above the portal areas were incorporated into the design as part of highwall elimination.	Reclaimed, Phase I Bond Released on November 8, 1994.
Old Portals Area	Pre-SMCRA	Reclaimed - not part of permitted mining operations.	Pre-SMCRA (AMR eligible) This area was reclaimed by the operator, but not as part of the permitted mining operations. Portals were closed but cuts remain relative to the road. pad and portal structures	Gratuitous Reclamation by operator.
ACT/043/008, SUMMIT COAL COMPANY, BOYER MINE				
Mine Area	Post-SMCRA 1986, 3 portals	Reclamation accomplished by DOGM following bond forfeiture.	Complete elimination as per plans and specifications written by the Division in the construction contract for the Boyer Mine.	Reclaimed, final.

October 16, 1997

Utah Regulatory Program Oversight Evaluation
Evaluation Year 1997

Name of Element: Public Participation

Team Members: Pamela Grubaugh-Littig (DOGM) and Ranvir Singh

SMCRA Goal: Section 102(i)

Section 102(i) states that it is the purpose of this act to "assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act..."

Reason for Selection:

The monitoring of public access and input opportunities in the State programs is an objective of oversight directive REG-8 that is to be evaluated regularly. This topic was also suggested by DOGM as important to its program.

Study Focus:

This evaluation focused on whether DOGM is complying with the public participation requirements of its program. It was strictly a procedural compliance review rather than a results-oriented review as is being done for the other oversight topics.

The team reviewed DOGM's compliance with public notification requirements for new permits, significant permit revisions, permit renewals, permit transfers, and bond releases. These requirements are contained in Utah Rules at:

- (a) R645-300-120 (public participation in permit processing - new permit, significant revision, permit renewal),
- (b) R645-303-330 (public participation in permit transfers), and
- (c) R645-301-880.120 (public participation in bond releases).

The team reviewed only those public notification actions that took place during the evaluation period beginning on October 1, 1996, and ending on September 30, 1997. The team reviewed all such actions regardless of whether or not the final action

(issuance of a new permit, significant permit revision, permit renewal, permit transfer, and release of a performance bond) has taken place during the evaluation period.

In addition to these reviews, the team also addressed a carryover item from last year. During its citizen involvement topic evaluation, the 1996 evaluation team had identified a lack of communication between the Utah Department of Environmental Quality (DEQ, formerly the Department of Health, Division of Environmental Health) and DOGM on water quality violations at minesites. The team recommended that the Memoranda of Understanding and Agreement between these two agencies be revised to specify notification procedures for violations. The team further reviewed the memoranda.

Findings:

The team has reviewed the following permit folders for actions completed by applicants and DOGM during the time period from October 1, 1996, through September 30, 1997. It has evaluated compliance by applicants and DOGM with approximately 150 requirements of DOGM regulations, which are detailed on the attached forms.

The team finds that the applicants and DOGM have thus far complied with the public notification requirements of the Utah regulatory program.

(a) Public Notification Reviews

New Permits

- 
1. Horizon Coal Mine (Horizon Coal Company), permit was approved on October 10, 1996.
 2. Dugout Mine (Canyon Fuel Company, LLC), permit not yet approved.

Significant Permit Revisions

1. Crandall Canyon Mine Culvert Installation (Genwal Resources, Inc.), permit was approved on June 27, 1997.
2. Soldier Canyon Mine Alkali Lease Tract (Canyon Fuel Company, LLC), permit was approved on June 20, 1997.
3. Skyline Mine North Lease Tract (Canyon Fuel Company, LLC), permit application withdrawn September 11, 1997.
4. Bear Canyon (Co-Op Mining Company), permit not yet approved.
5. Deer Creek Mine North Rilda Lease (PacifiCorp), permit

was approved on July 15, 1997.

Permit Renewals

1. Centennial Mine (Andalex Resources, Inc.), permit renewal was approved on January 6, 1997.
2. Star Point Mine (Cyprus Plateau Mining Corp.), permit renewal was approved on January 28, 1997.
3. Hidden Valley Mine (Consolidation Coal Co.), permit renewal was approved on January 29, 1997.
4. Soldier Canyon Mine (Canyon Fuel Company, LLC), permit renewal was approved on February 3, 1997.
5. Hiawatha Mine (U.S. Fuel Company), permit renewal was approved on April 14, 1997, effective March 14, 1997.
6. Skyline Mine (Canyon Fuel Company, LLC), permit renewal was approved on April 30, 1997.
7. SUFCO (Convulsion Canyon) Mine (Canyon Fuel Company, LLC), permit renewal was approved on May 19, 1997.
8. Bear Canyon Mine (Co-Op Mining Company), permit renewal was approved on August 25, 1997.

Permit Transfers

1. Skyline Mine (Canyon Fuel Company, LLC), permit transfer was approved on December 20, 1996.
2. Banning Loadout (Canyon Fuel Company, LLC), permit transfer was approved on December 20, 1996.
3. Soldier Canyon Mine (Canyon Fuel Company, LLC), permit transfer was approved on December 20, 1996.
4. Dugout Canyon Mine (Canyon Fuel Company, LLC), permit application was transferred on December 20, 1996.
5. SUFCO (Convulsion Canyon) Mine (Canyon Fuel Company, LLC), permit transfer was approved on December 20, 1996.
6. Horizon Mine (Horizon Coal Corp.), permit transfer was approved on July 11, 1997.

Bond Releases

1. Huntington #4 Mine, (Mountain Coal company), Phase III bond release not yet approved.

2. Gordon Creek #3 and #6 Mine, (Mountain Coal Company), Phase III bond release not yet approved.

3. Horse Canyon Mine (Intermountain Power Agency), Phase I bond release approved on February 5, 1997.

4. Sowbelly at Castle Gate Mine (Amax Coal Company), Phase I bond release approved on January 30, 1997.

5. Sunnyside Refuse and Slurry at the Old Coarse Refuse Road (Sunnyside Cogeneration Associates), Phase I bond release not yet approved.

(b) Memorandum of Understanding

On October 16, 1990, DOGM and the Department of Health, Division of Environmental Health (DEH), entered into a MOU, which is a revision of a December 22, 1988, MOU. Among other things the MOUs address the Agencies' responsibilities for reports and inspections relating to surface water quality on coal mines. On June 27, 1990, DOGM and DEH entered into a Memorandum of Agreement (MOA), which addresses the Agencies' responsibilities for ground water protection on coal mines, onsite coal preparation plants, and coal loadout facilities.

On July 1, 1991, DEH became the Department of Environmental Quality (DEQ). By letter dated September 30, 1991, the ~~contracts~~ previously entered into by DEH were assigned to DEQ. Therefore, this report hereinafter refers to as the DOGM and DEQ, MOUs and MOA, rather than the DOGM and DEH, MOUs and MOA.

During the last oversight evaluation period, the team evaluated DOGM's response to a citizen complaint concerning surface water contamination by the Sunnyside Mine. A foam discharge by the mine to an adjacent creek (a point source discharge to surface waters) resulted in a violation of the Utah Pollutant Discharge Elimination System (UPDES) permit. DOGM correctly responded to the complaint, but the team found that there was a lack of communication by DEQ with DOGM on previous similar violations at the mine.

Because the incidence was a violation of the UPDES permit, the provisions of the October 16, 1990 Revised MOU applied. Article III. C of the MOU, ~~Reports and Inspections~~, describes a mechanism requiring DOGM to notify DEQ of violations so that DOGM and DEQ may conduct joint inspections to ensure compliance with environmental performance standards. The MOU does not include a reciprocal requirement for DEQ to notify DOGM of violations for

the purpose of coordinating inspection and enforcement activity.

Per the terms of the MOU, DEQ was not required to notify DOGM of the previous Sunnyside Mine noncompliances. However, the team believes that the lack of two-way communication between DEQ and DOGM could hinder effective enforcement of water quality standards on coal mines.

Also, at a minimum, the MOU is not clear in delineating which agency is responsible for taking enforcement actions for violations of water quality standards. At a maximum, the MOU may cede DOGM's authority for enforcement to DEQ. This interpretation may be supported by Article II of the MOU, which states that DEQ is ~~the~~ the designated regulatory authority for the State of Utah responsible for administering and enforcing environmental laws *** including water quality (inclusive of drinking water) ***~~the~~ (emphasis added).

Currently, the Division has authority and has been citing violations. However, the MOU does not clearly reflect this.

Conclusions and Recommendations

(a) Public Notification Reviews

For actions completed during the evaluation period the team concludes that the applicants and DOGM complied with the public notification requirements of the Utah regulatory program. The team has no recommendations for changes or improvements in the implementation of the public notification process.

(b) Memorandum of Understanding

The team concludes that in two respects the October 16, 1990, MOU between DOGM and DEQ does not promote effective enforcement of water quality standards at coal mines. First, the MOU lacks a provision that requires DEQ to inform DOGM when DEQ becomes aware of a violation of UPDES or 40 CFR 434 standards. Such a provision is necessary so that both agencies know, as soon as possible, about a violation so that they can coordinate with each other on an appropriate enforcement action. Second, the MOU lacks specificity as to which agency is responsible for issuing a violation notice when reports and inspections justify such an action.

The Team also concludes that the October 16, 1990, MOU and June 27, 1990, MOA are out of date to the extent that they do not reflect various agency name changes that have occurred as the result of reorganizations.

On the basis of these conclusions, the team makes the

following recommendations.

- 0 For the purpose of taking coordinated enforcement actions, DOGM and DWQ should expand Article III.C of the MOU, or otherwise modify the MOU, to promote two-way communication between DOGM and DWQ on the noncompliances with the UPDES and 40 CFR 434 standards that either agency becomes aware of through operator reports or agency inspections.
- 0 DOGM and DWQ should specify in Article III, or somewhere , in the MOU the type of enforcement actions each agency will take.

The team has attached copies ^{of the} MOU between two agencies of Colorado Departments of Health, and Natural Resources and other relevant information, should DOGM and DWQ wish to use them for possible guidance. ✓

- 0 When the 1990, MOU is revised, DOGM and DWQ should update it with the current names of agencies and agency officials entering into the agreement. DOGM and DWQ should similarly update the 1990 MOA. DOGM and DWQ may wish to consider combining them into one agreement the revised provisions of the MOU and MOA.

Recommendations for the 1998 Evaluation Period

Since the team did not find any violations of applicable Utah program regulations with respect to public notifications in the permitting actions, and since the Oversight Directive requires that in each evaluation year OSM review the effectiveness of State's customer service (which includes public access and input opportunities, and public notifications), the team recommends that:

- (1) Further comprehensive evaluation of public notifications in permitting actions not completed by the DOGM by September 30, 1997, should not be continued in the 1998 evaluation period.
- (2) Comprehensive evaluation of public notifications as it was done for the 1997 evaluation period should be scaled down to AVS determinations, as outlined in REG-8, C.3. Customer Service.

R645-300-120: Public Participation in Permit Processing:

(a) New permit

Mine name:

DOG M Permit No:

Permit issue date:

Se- rial No.	Regula- tion Section No.	Requirement	Complied with?		Comments
			Yes	No	
A.	124.100	Public availability of permit applications. DOGM will make applications for permits (subject to two exceptions) available for public inspection and copying at reasonable times.			
B.	121.100	An applicant will advertise the submission of an administratively complete application in local newspapers of general circulation once a week for four consecutive weeks.			
C.	121.200	An applicant will file a full copy of the application at the courthouse of the county of the proposed operation for public inspection and copying			

D.	121.300	<p>DOGM will issue written notification, upon receipt of an administratively complete application, of applicant's intent to conduct surface coal mining and reclamation operations. These notifications will be sent to:</p> <ul style="list-style-type: none"> (1) local governmental agencies with jurisdiction over or interest in the area of the proposed operation, e.g. planning agencies, sewage and water treatment authorities, water companies, etc. (121.310) (2) all Federal or State governmental agencies with authority to issue permits or licenses applicable to proposed coal mining and reclamation operation. 			
E.	122.300	<p>DOGM will transmit any written comments or objections on the application :</p> <ul style="list-style-type: none"> (1) to the applicant, and (2) to the Division files for public inspection. 			
F.	123.210	<p>If requested by an entity identified in 121.310 and 121.320 within 30 days of the last newspaper advertisement, DOGM will hold an informal conference in the locality of the proposed coal mining and reclamation operation.</p>			
G.	123.220	<p>At least 2 weeks prior to the scheduled conference, DOGM will: (1) send to the applicant and other parties to the conference, the date, time, and location of the informal conference, and</p> <ul style="list-style-type: none"> (2) advertise the scheduled conference in a newspaper of general circulation in the locality of the proposed coal mining and reclamation operation. 			

H.	123.230	DOG M will arrange with the applicant to grant access to the proposed permit area prior to the conference if requested in writing by a conference requestor.			
I.	123.240	DOG M will conduct the informal conference in accordance with the Procedural Rules of the Board of Oil, Gas, and Mining (R641), and will maintain and make accessible to the parties of the conference the records of the informal conference until final performance bond release.			
J.	131.100	DOG M will make the decision on an informal conference within 60 days of the close of the conference.			
K.	152	DOG M will issue written notification of the decision to the following persons and parties: 152.100:(1) the applicant, each person who files comments or objections to the permit application, and each party to an informal conference; 152.200:(2) the local governmental officials in the local political subdivision in which the land to be affected is located within 10 days after the issuance of a permit, including a description of the location of the land; and 152.300:(3) OSM.			

R645-300-120: Public Participation in Permit Processing:

(b) Significant permit revision

Mine name:

DOGM Permit No:

Permit revision date:

Serial No.	Regulation Section No.	Requirement	Complied with?		Comments
			Yes	No	
A.	124.100	Public availability of permit applications. DOGM will make applications for permits (subject to two exceptions) available for public inspection and copying at reasonable times.			
B.	121.100	An applicant will advertise the submission of an administratively complete application in local newspapers of general circulation once a week for four consecutive weeks.			
C.	121.200	An applicant will file a full copy of the application at the courthouse of the county of the proposed operation for public inspection and copying.			

D.	121.300	<p>DOGGM will issue written notification, upon receipt of an administratively complete application, of applicant's intent to conduct surface coal mining and reclamation operations. These notifications will be sent to:</p> <p>(1) local governmental agencies with jurisdiction over or interest in the area of the proposed operation, e.g. planning agencies, sewage and water treatment authorities, water companies, etc. (121.310)</p> <p>(2) all Federal or State governmental agencies with authority to issue permits or licenses applicable to proposed coal mining and reclamation operation.</p>			
E.	122.300	<p>DOGGM will transmit any written comments or objections on the application :</p> <p>(1) to the applicant, and</p> <p>(2) to the Division files for public inspection.</p>			
F.	123.210	<p>If requested by an entity identified in 121.310 and 121.320 within 30 days of the last newspaper advertisement, DOGGM will hold an informal conference in the locality of the proposed coal mining and reclamation operation.</p>			
G.	123.220	<p>At least 2 weeks prior to the scheduled conference, DOGGM will: (1) send to the applicant and other parties to the conference, the date, time, and location of the informal conference., and</p> <p>(2) advertise the scheduled conference in a newspaper of general circulation in the locality of the proposed coal mining and reclamation operation.</p>			

H.	123.230	DOG M will arrange with the applicant to grant access to the proposed permit area prior to the conference if requested in writing by a conference requestor.			
I.	123.240	DOG M will conduct the informal conference in accordance with the Procedural Rules of the Board of Oil, Gas, and Mining (R641), and will maintain and make accessible to the parties of the conference the records of the informal conference until final performance bond release.			
J.	131.100	DOG M will make the decision on an informal conference within 60 days of the close of the conference.			
K.	152	DOG M will issue written notification of the decision to the following persons and parties: 152.100:(1) the applicant, each person who files comments or objections to the permit application, and each party to an informal conference; 152.200:(2) the local governmental officials in the local political subdivision in which the land to be affected is located within 10 days after the issuance of a permit, including a description of the location of the land; and 152.300:(3) OSM.	X		

R645-300-120: Public Participation in Permit Processing:

(c) Permit renewal

Mine name:

DOGM Permit No:

Permit renewal date:

Serial No.	Regulation Section No.	Requirement	Complied with?		Comments
			Yes	No	
A.	124.100	Public availability of permit applications. DOGM will make applications for permits (subject to two exceptions) available for public inspection and copying at reasonable times.			
B.	121.100	An applicant will advertise the submission of an administratively complete application in local newspapers of general circulation once a week for four consecutive weeks.			
C.	121.200	An applicant will file a full copy of the application at the courthouse of the county of the proposed operation for public inspection and copying.			

D.	121.300	<p>DOGGM will issue written notification, upon receipt of an administratively complete application, of applicant's intent to conduct surface coal mining and reclamation operations. These notifications will be sent to:</p> <p>(1) local governmental agencies with jurisdiction over or interest in the area of the proposed operation, e.g. planning agencies, sewage and water treatment authorities, water companies, etc. (121.310)</p> <p>(2) all Federal or State governmental agencies with authority to issue permits or licenses applicable to proposed coal mining and reclamation operation.</p>			
E.	122.300	<p>DOGGM will transmit any written comments or objections on the application :</p> <p>(1) to the applicant, and</p> <p>(2) to the Division files for public inspection.</p>			
F.	123.210	<p>If requested by an entity identified in 121.310 and 121.320 within 30 days of the last newspaper advertisement, DOGGM will hold an informal conference in the locality of the proposed coal mining and reclamation operation.</p>			
G.	123.220	<p>At least 2 weeks prior to the scheduled conference, DOGGM will: (1) send to the applicant and other parties to the conference, the date, time, and location of the informal conference., and</p> <p>(2) advertise the scheduled conference in a newspaper of general circulation in the locality of the proposed coal mining and reclamation operation.</p>			

H.	123.230	DOGGM will arrange with the applicant to grant access to the proposed permit area prior to the conference if requested in writing by a conference requestor.			
I.	123.240	DOGGM will conduct the informal conference in accordance with the Procedural Rules of the Board of Oil, Gas, and Mining (R641), and will maintain and make accessible to the parties of the conference the records of the informal conference until final performance bond release.			
J.	131.100	DOGGM will make the decision on an informal conference within 60 days of the close of the conference.			
K.	152	DOGGM will issue written notification of the decision to the following persons and parties: 152.100:(1) the applicant, each person who files comments or objections to the permit application, and each party to an informal conference; 152.200:(2) the local governmental officials in the local political subdivision in which the land to be affected is located within 10 days after the issuance of a permit, including a description of the location of the land; and 152.300:(3) OSM.			

R645-300-124.100 and R645-303-300: Public Participation in Permit Processing:

(d) Permit transfer

Mine name:

DOGM Permit No:

Permit transfer date:

Se- rial No.	Regula- tion Section No.	Requirement	Complied with?		Comments
			Yes	No	
A.	124.100	Public availability of permit applications. DOGM will make applications for permits (subject to two exceptions) available for public inspection and copying at reasonable times.			
B.	303-322	The applicant will advertise the filing of the application in newspaper of general circulation in the locality of the operation.			
C.	303-351	The DOGM will notify the permittee, the successor, commenters , and OSM of its findings. <small>Commenters</small>			

R645-301-800: Public Participation in

(e) Bond release

Mine name:

DOGM Permit No:

Bond release date:

Serial No.	Regulation Section No.	Requirement	Complied with?		Comments
			Yes	No	
A.	880.120	<p>Within 30 days after an application for bond release has been filed with DOGM, the operator will :</p> <p>(1) advertise at least once a week for four consecutive weeks in a paper of general circulation in the locality of the coal mining and reclamation operation notifying interested persons to submit to DOGM written comments, objections, or requests for public hearings and informal conferences on the application for bond release, and</p> <p>(2) send letters to adjacent property owners, local government bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the coal mining and reclamation operation took place.</p>			

B.	880.210	<p>DOGGM will:</p> <p>(1) give notice of inspection and evaluation the reclamation work, to the surface owner, agent or lessee affording them an opportunity to participate in the inspection, and</p> <p>(2) arrange for the permittee to allow access to the permit area upon request of persons with interest in bond release.</p>			
C.	880.600	<p>Any person with a valid legal interest that might be adversely affected by the release of the bond, or the responsible officer or head of any Federal, State, or local government agency with jurisdiction, will have the right to file with DOGM written objections to the proposed bond release within 30 days after the last publication of the newspaper notice. If written objections are filed and a hearing is requested, DOGM will (1) advertise in a newspaper of general circulation for two consecutive weeks a notice of public hearing, (2) inform the interested parties of the hearing, and (3) hold a public hearing within 30 days after the receipt of the request for the hearing in the locality of the coal mining and reclamation operation, or at the location of the DOGM office, at the option of the objector..</p>			
D.	880.800	<p>DOGGM may hold an informal conference to resolve objections, without prejudice to the right of an objector or the applicant. DOGM will make a record of the informal conference. DOGM will furnish all parties of the informal conference with its written finding.</p>			

E.	880.500	When an application for total or partial bond release is filed with DOGM, DOGM will notify the municipality in which the coal mining and reclamation activities are located by certified mail at least 30 days prior to the release of all or a portion of the bond.			
F.	880.220	Within 60 days from the filing of the bond release application, if no public hearing is held, or within 30 days after the public hearing is held, DOGM will notify in writing the permittee, the surety or other persons with an interest in bond collateral who have requested notification under R645-301-860.260, persons who filed objections in writing, and objectors who were a party to the hearing proceedings, of its decision to release or not to release all or any part of the bond.			
G.	880.400	DOGM will notify the permittee , the surety, and any person with an interest in collateral, in writing of its decision to disapprove all or any part of the reclamation bond stating reasons for disapproval and recommendations for necessary corrective actions and allowing opportunity for public hearing.			

REVISED
MEMORANDUM OF UNDERSTANDING

BETWEEN

THE UTAH DIVISION OF OIL, GAS AND MINING

AND

THE UTAH DEPARTMENT OF HEALTH,
DIVISION OF ENVIRONMENTAL HEALTH

FOR
MINING OPERATIONS

The Utah Department of Natural Resources, Division of Oil, Gas and Mining (DOGM) and the Department of Health, Division of Environmental Health (DEH), hereby revise the Memorandum of Understanding dated January 2, 1986, effective this 16th day of October 1990.

ARTICLE I - PURPOSE

This Memorandum Of Understanding provides an operating agreement by which DOGM and DEH shall execute their respective responsibilities concerning regulation of the environmental impacts of surface and underground mining operations in the state of Utah.

ARTICLE II - POLICY

The DOGM is the designated regulatory authority for the state of Utah responsible for implementation and enforcement of a statewide program for the regulation of mining and reclamation activities under state and federal laws. The DEH is the designated regulatory authority for the state of Utah responsible for administering and enforcing environmental laws including radioactivity, air quality, water quality (inclusive of drinking water) and solid waste management.

Therefore, it is the mutual desire of the DOGM and DEH to work in harmony for the common purpose of minimizing the adverse effects of mining activities on the environmental resources of the state.

ARTICLE III - ADMINISTRATION

A. Pre-design Consultation

Coal & Large Minerals Mining Operations

1. When the DOGM is contacted by an operator who is intending to mine, the DOGM will notify the DEH, and DEH may schedule a pre-design conference between the operator, the DEH, and the DOGM concerning environmental permits and approvals required for the proposed mining operation. When available to the DOGM, such notification by DOGM to DEH will include a map of the proposed development, a description of the operation, and the proposed duration of operations.
2. Based upon such notification and the pre-design conference, the DEH will advise the operator in the pre-design meeting and/or in writing within 30 days of said notification of environmental permits and approvals required by DEH to be included in the DOGM'S mine plan approval and shall provide the DOGM with a copy of such correspondence or summary of the meeting.

NOTE: The above-referenced requirements shall not apply to Small Mining Operations (less than 5 acres of surface disturbance) under DOGM's Minerals Regulatory Program.

B. Mine Plan Review

Coal & Large Minerals Mining Operations

1. Upon submission of a mining and reclamation plan to DOGM, the DOGM shall, in consultation with DEH, review the operator's list of licenses, permits or approvals to determine whether or not required approvals for DEH have been issued.
2. If the DEH has not issued the appropriate permits or approvals, the DOGM will submit to the DEH those parts of the permit application containing matters within the DEH's jurisdiction or interest for review and response and inform the operator in writing that he must contact DEH for the appropriate permits and approvals.
3. If additional information is required by DEH for any permit or approval, the DEH shall contact the operator for such information. Copies of any such requests and the operator's response to such requests shall be forwarded to DOGM by DEH.
4. Within 30 days (Air Quality Statute normally allows up to 180 days for permitting procedures, or within 14 working

days for any appropriate notice of violation abatement plans) of receipt by DEH of the mining operator's original submission and any additional information requested, the DEH shall contact the DOGM with preliminary written notification of the status of any outstanding permits or approvals pertaining to each DEH Bureau. If DEH determines the operator's permit application is unacceptable as presented, at DEH's request, the DOGM may convene a conference between the state agencies and the operator at a mutually acceptable location and time.

5. The DEH will make every effort to have their response to the mine plan and any other DEH permits and approvals finally completed within 30 days (Air Quality statute normally allows for up to 180 days of the Bureau of Air Quality's receipt of the operator's complete application).

Small Mining Operations, Minerals Regulatory Program

1. Upon submission of an application for a Small Mining Operation to DOGM, the DOGM shall consult with DEH to determine whether or not required approvals from DEH have been issued.
2. If any permits or approvals from the DEH have not been issued, the DOGM will inform the operator in writing that he must also contact DEH for the appropriate permits and approvals prior to commencing mining operations.
3. If additional information is required by DEH for any permit or approval, the DEH shall contact the operator for such information. Copies of any such requests and the operator's response to such requests shall be forwarded to DOGM by DEH.
4. The DEH will forward to the DOGM copies of all appropriate permit approvals issued by DEH to the operator.

C. Reports and Inspections

When notified by the DOGM, and to the extent resources allow, the DEH agrees to participate in efforts to coordinate joint DOGM and DEH inspections to ensure compliance with environmental performance standards set forth by applicable State law.

D. UPDES Discharge Permits

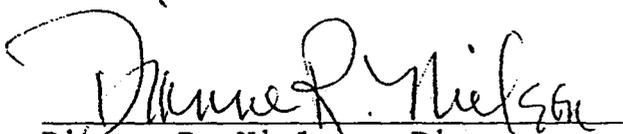
1. The Utah Water Pollution Control Committee is the UPDES and UIC permitting authority in the State as delegated by the Environmental Protection Agency (EPA). The DEH will coordinate and communicate any permitting, compliance and enforcement issues pertaining to the UPDES and UIC program with EPA.

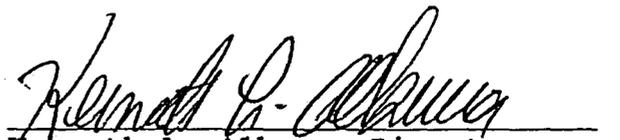
2. Upon notification of DOGM by a mine operator of an intent to discharge to surface or groundwater, the DOGM will notify the DEH of the operator's intent and access. The DEH will notify the operator of the need for timely submission of a complete UPDES or UIC application to the DEH and EPA. Applications for new individual UPDES permits must be made at least 180 days prior to the proposed discharge. Coverage by existing general permit may be granted within 30 days.
3. The DEH will coordinate with the DOGM to ensure all appropriate controls set forth by State law are incorporated into the UPDES and UIC permits. With the intent of reducing duplication of effort and in the interest of best utilizing State resources, the DEH will utilize DOGM comments, expertise and familiarity with proposed mining operations in the development of UPDES or UIC permits to the maximum extent practicable.

ARTICLE IV - TERMINATION

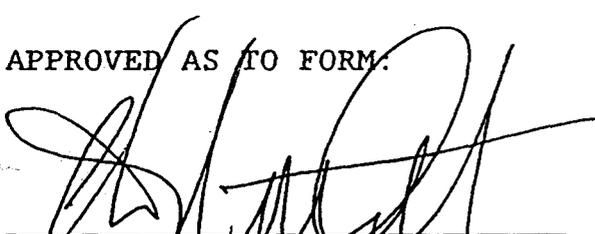
This Memorandum of Understanding shall become effective when signed by the designated representatives of the parties. The memorandum shall remain in force until terminated by mutual agreement or by either party upon thirty (30) days written notice to the other party. Amendments to this agreement may be proposed by either party and shall be adopted upon written agreement by all parties.

This Memorandum of Understanding is approved as of this 16th day of October 1990, by the following:


Dianne R. Nielson, Director
Division of Oil, Gas & Mining


Kenneth L. Alkema, Director
Division of Environmental Health

APPROVED AS TO FORM:


ASSISTANT ATTORNEY GENERAL

APPROVED AS TO FORM:


ASSISTANT ATTORNEY GENERAL

TO: DEH
FROM: DOGM

DATE

TO: DOGM
FROM: DEH

DATE

RE: Suspected Environmental Violation

Mine Name: _____

NPDES Permit Identification: _____

The above referenced permit limits discharge of
the following parameters to: DOGM sampling has delineated

A copy of the sample results is attached for your information.

By return copy of this memo, DEH advises DOGM that this data

{ } Does { } Does not

INDICATE:

- { } Insignificant - Danger to health or the environment
- { } Chronic - Danger to health or the environment
- { } Seriously endangers health, safety of the public or environment
- { } Imminent environmental harm to land air or water resources

Visual air emission observed at source _____
on _____.

Reference: MOU DOGM/DEH, revised _____
DATE

(Response to DOGM by DEH within 10 days of receipt by DEH)

UTAH - HIGHWALL INVENTORY (Page 1 of 10) last updated September 29, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/007/001, WHITE OAK MINING COMPANY, WHITE OAK MINE				
White Oak #1 Mine Portals	Pre-SMCRA, 1976	Plate R645-301-527, Figure R-12, pp. R-10 through R-17. Information in the text of the plan is poor but does indicate that the slopes above the highwalls have been reduced to accommodate reclamation.	Elimination, deficient.	Active
White Oak #2 Mine Portals	Pre-SMCRA	Plate R645-301-527, Figure R-12, pp. R-10 through R.	Elimination, deficient.	Active
Loadout Area Portals	Pre-SMCRA	Plate R645-301-527, Figure R-12, pp. R-10 through R. Elimination to the extent possible, some cuts may remain above the portal faceups under R645-301-553.500 as needed. These are old, pre-SMCRA mine openings which were not used during current permitted operations. Operator is proposing to re-enter the mine in this area, but with new portals.	Partial retention, R645-301-553.500, deficient.	Sealed/Caved
ACT/007/004, AMAX COAL COMPANY, CASTLE GATE MINE				
Audit #1 Area	Pre-SMCRA, 1888	Exhibit 3.5-1, Section 3.5, pp. 3.5-9. Portion of portal collar to be left as historically significant.	Partial retention, R645-301-553.500,	Pending reclamation.
Hardscrabble Canyon Area	Pre-SMCRA	Exhibit 3.3-1, Section 3.3, pp. 3.3-6, 3.3-38, Figure 3.3-3 on pp. 3.3-72, and revised April 1996 reclamation plan. Elimination in most areas and Retention of two highwall areas (R645-301-553.500) No 4 mine conveyor belt portal highwall and No. 5 Mine where portals were extended beneath a large natural cliff.	Retention, R645-301-553.500.	Currently undergoing active reclamation.
Sowbelly Canyon Area	Pre-SMCRA	Exhibit 3.2-1, Section 3.2. All highwalls associated with mine openings are to be eliminated by backfilling. Some cut-slope areas not related to mine openings remain	Elimination.	Phase I bond release, 1/30/97.
ACT/007/005, CANYON FUEL COMPANY, SKYLINE MINE				
Mine #1 Portals	Post-SMCRA, 1980	Map 3.2.2.1 Appears that all portal highwalls for #1 Mine will be eliminated to the extent possible and that slopes above the highwalls are to be reduced to maintain stability. Plan needs to more concisely address highwall elimination to demonstrate AOC.	Elimination, deficient	Active
Mine #3 Portals	Post SMCRA, 1980	Map 3.2.1-1 Plans are deficient regarding discussion of highwall elimination. Highwall areas reduced to 1:1 slopes above portals in rock outcrop and will remain as part of final reclamation but does not indicate that the final configuration effectively eliminates the highwall during reclamation.	Elimination, deficient.	Active

UTAH - HIGHWALL INVENTORY (Page 2 of 10) last updated September 29, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
South Fork Ventilation Portals	Post-SMCRA, 1992	Map 3.2.1-1 Plans are deficient regarding discussion of highwall elimination. Drawings indicate complete elimination of highwall above the portals by backfilling	Elimination, deficient.	Active
ACT/007/006, CYPRUS PLATEAU MINING CORPORATION, STAR POINT MINE				
Lion Deck Portal Area	Under Review. Portal area highwalls are Pre-SMCRA but may have been re-affected by mining expansion.	Maps 542.200a, b and c, 1976 flyover photos and topographic maps (attached to questionnaire). The Division has reviewed the plan and identified deficiencies regarding highwall elimination as part of those deficiencies in the plan. Evaluation of this mine site will occur following submittal of information required under those deficiencies. Under Review. Plans are deficient regarding discussion of highwall elimination. Due to geomorphology, complete elimination of highwalls will most likely not be feasible. May qualify under "re-mining" consideration for highwall retention or as cliff replacement in others. Mitigation may require elimination of highwalls to the extent they were re-affected if post-SMCRA activities occurred. Highwalls which are pre-SMCRA and not re-affected may require more information under R645-301-553.500 to be approvable.	Retention, deficient.	Active.
#1 Mine Portals	Pre-SMCRA	See above	Retention, deficient.	Active.
#2 Mine Portals	Pre-SMCRA, may have re-affected highwall Post-SMCRA	See above	Retention, deficient.	Active.
ACT/007/007, SUNNYSIDE COAL COMPANY, SUNNYSIDE MINE				
Entire Complex	Pre-SMCRA, all openings. 37 Portals, 9 Shafts	Pending designs and construction under bond forfeiture by the Division.	Some highwall areas may be retained based on stability analysis and based on availability of funds through bankruptcy.	All operations are currently inactive/abandoned. Reclamation activity is scheduled for 1997-1999
ACT/007/011, UNITED STATES FUEL COMPANY, HIAWATHA COMPLEX				
King 4 Intake Portals	Pre-SMCRA, 1975.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 4 Belt & Return Portals	Pre-SMCRA, 1975.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 5 Portals	Highwall Faceup, Pre-1978. Portals Driven in spring of 1978.	Plate V-11, Middle Fork Upper Bench, Chapter II Soils, pp. 72-76.	Elimination.	Sealed.
King 6/King 3 Intake & Return Portals	Pre-SMCRA, 1947.	Plate V-12, South Fork Lower Bench, Chapter II Soils, pp. 72-76.	Partial retention, R645-301-553.500.	Sealed.

UTAH - HIGHWALL INVENTORY (Page 3 of 10) last updated September 29, 1997

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Hlawatha 1 & 2, King 1 & 2, South Fork "B" and "A" Seams	Pre-SMCRA, within permit area but not re-affected under current permit	Pre-Act	N/A	Sealed.
ACT/007/012, NEVADA ELECTRIC INVESTMENT COMPANY, WELLINGTON PREPARATION PLANT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/013, INTERMOUNTAIN POWER AGENCY, HORSE CANYON MINE				
North Fan	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Woodward East and West	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Carlson East and West	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Rock Tunnel	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Main Intake North	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
South Fan	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Eliminated.	Reclaimed, Phase I Bond Release, Feb. 5, 1997.
Lila Canyon East and West	Pre-SMCRA, before 1953.	Chapter 2, Section 2.8, pp. 11-14: no real highwall associated with this breakout.	Reclaimed. Natural rock fall covers portal area.	To be left "as-is", Phase I Bond Release, Feb. 5, 1997.
Main Intake South	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Elimination.	Pending Reclamation
Manway	Pre-SMCRA, before 1953.	Chapter 3, Section 3.5 pp. 6 & 7, Chapter 4, Section 4.6, pp. IV-15 and 16.	Elimination.	Pending Reclamation
ACT/007/016, MOUNTAIN COAL COMPANY, GORDON CREEK 2, 7 & 8 MINES				
Portal Access #2 Mine	Pre-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall remnants to occur due to spoil availability and stability.	Partial Retention, R645-301-553.500.	Pending Reclamation.
Old #2 Mine Fan Portal Access	Pre-SMCRA	Volume 1, Plate 3-2, Plate 3-7B, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall remnants to occur due to spoil availability and stability.	Partial Retention, R645-301-553.500.	Pending Reclamation.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Portal Access to #7 Mine	Post-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Unable to completely backfill due to spoil/stability issues. Resolved by joint approval with OSM regarding reclamation designs in 1995. Portion of highwall is retained but stable.	Partial Retention.	Reclaimed, Pending Bond Release.
Portal Access to #8 Mine	Post-SMCRA	Volume 1, Plate 3-1, Plate 3-7A, Chapter 3, pg. 3-2 through 3-17, Section 3.5.4, Section 3.5.4.1, Appendix 3-1, Appendix 3-7, Appendix 3-8. Highwall has been completely backfilled.	Eliminated.	Reclaimed, Pending Bond Release.
ACT/007/017, MOUNTAIN COAL COMPANY, GORDON CREEK #3 AND #6 MINES				
#3 Mine Portal	Pre-SMCRA, 1975.	Reclaimed. Refer to TDN 94-020-179-002 and letter dated 11/10/94.	Eliminated.	Reclaimed, Phase I Bond Release, 6/26.87, Phase II Bond Release, 2/13/95.
#6 Mine Portal	Pre-SMCRA, 1975.	Reclaimed. Refer to TDN 94-020-179-002 and letter dated 11/10/94	Elimination.	Reclaimed, Phase I Bond Release, 6/26.87, Phase II Bond Release, 2/13/95.
ACT/007/018, CANYON FUEL COMPANY, SOLDIER CANYON MINE				
East Portal Area	Post-SMCRA, circa 1990	Volume 1, Chapter 5, section 5.53 through 5.53-24. Exhibit No. 7.60a, Volume 7. Highwalls shown to be backfilled as per drawings.	Elimination.	Active.
West Portal Area	Pre-SMCRA	Volume 1, Chapter 5, section 5.53 through 5.53-24. Exhibit No. 7.60a, Volume 7. Highwalls shown to be backfilled as per drawings	Elimination.	Active.
ACT/007/019, ANDALEX RESOURCES, CENTENNIAL PROJECT				
Apex Portals	Post-SMCRA, 1982.	Plates 14 and 15, Section R645-301-532.200 of the plan Plan shows only partial backfilling at the portals.	Retention, deficient.	Active
Pinnacle Portals	Post-SMCRA, 1980.	Plates 14 and 15, Section R645-301-532.200 of the plan. Plan show only a portion of the highwall to be backfilled.	Retention, deficient.	Active.
Aberdeen Portals	Post-SMCRA, 1989.	Plates 14 and 15, Section R645-301-532.200 of the plan.	Retention, deficient.	Active.
Lower Pinnacle Portals	Post-SMCRA, 1980	Plates 14 and 15, Section R645-301-532.200 of the plan.	Retention, deficient.	Active.
Left Fork Fan Portal	Post-SMCRA, 1995	Plates 14 and 15, Section R645-301-532.200 of the plan.	Elimination, deficient. plans	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/007/020, HORIZON COAL COMPANY, HORIZON MINE				
Fan Portal	Pre-SMCRA, Re-opened for new permit.	Section 3.5.4.1, pp. 3-32, Plate 3-7.	Elimination.	Currently being re-activated
Hiawatha Seam Portal	Pre-SMCRA, Re-opened for new permit.	Section 3.5.4.1, pp. 3-32, Plate 3-7.	Elimination.	Currently being re-activated.
Other Portals within Permit Area	Pre-SMCRA	See Map attached to questionnaire response (Plate 3-7).	Reclaimed by AMR Program	Not Re-Affected by current mining operations
ACT/007/021, NORTH AMERICAN EQUITIES, BLAZON MINE #1				
# 1 Mine Portals	Post-SMCRA, 1980 3 portals	Reclamation Plan pp.18-35	Partial Retention	Phase I Bond release approved by Board Order on 2/28/91. Site is currently abandoned and under bond forfeiture.
ACT/007/022, SAVAGE INDUSTRIES, SAVAGE COAL TERMINAL				
Loadout Facility	No Portals		No Highwalls	
ACT/007/033, ANDALEX RESOURCES, WILDCAT LOADOUT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/034, CANYON FUEL COMPANY, BANNING SIDING LOADOUT				
Loadout Facility	No Portals		No Highwalls	
ACT/007/035, SUNNYSIDE COGENERATION ASSOCIATES, SUNNYSIDE REFUSE AND SLURRY				
Refuse Recovery Facility	No Portals		No Highwalls	
ACT/007/038, CYPRUS PLATEAU MINING CORPORATION, WILLOW CREEK MINE				
Crandall Canyon Area	Post-SMCRA, 2 Shafts	Exhibit 20, Volumes 14, 14A, and 14B. See revised reclamation plan, Exhibit 3.7-7, Section 3.7, Appendix 3.7U.(AMAX Plan) Slopes adjacent to shafts were cut in rock to accommodate surface facilities. Portions of these cuts will remain following reclamation but are part of cliff-forming members in the canyon. Text in plan need to be more specific regarding highwalls related to shafts.	Retention, cliff replacement.	Inactive
Gravel Canyon Area	Pre-SMCRA, No Openings	Section 3.6, Exhibit 3.6-1, Exhibit 19, Volume 13B.	No Highwalls.	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Preparation Plant Area	Mixed Pre-SMCRA and Post-SMCRA disturbances.	Section 3.4, Exhibit 3.4-1, Exhibit 19, Volume 13.	No Highwalls.	Active.
Willow Creek Area	Mixed Pre-SMCRA and Post-SMCRA disturbances. Portal Faceup area is Pre-SMCRA, 1976.	Section 5.4, Volume 3. Map 18A, Volume 6. Portal Faceup area was reclaimed under the AMR program prior to new permitting action. Plan calls for backfilling the highwall to the same extent that the highwall was previously backfilled during AMR reclamation.	Elimination.	Active.
Conveyor Tunnels	Pre-SMCRA	Tunnels were initially excavated pre-SMCRA as railroad tunnels. Operator has re-opened these tunnels and used them for conveyors from the mine facilities to the loadout facilities. Reclamation of these facilities is discussed in the reclamation backfilling and grading plan.	Not Applicable.	Active.
PRO/007/039, CANYON FUEL COMPANY, DUGOUT CANYON MINE				
Under Permit Application		Not yet permitted.		
ACT/015/002, WESTERN STATES MINERALS CORPORATION, J. B. KING MINE				
Mine Portal Area	Pre-SMCRA, 1930's. 1 Portal.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated.	Reclaimed, Phase I Bond Release, 5/20/86.
ACT/015/004, MOUNTAIN COAL COMPANY, HUNTINGTON CANYON #4 MINE				
Mine Portal Area	Pre-SMCRA, 1940's. 3 Portals.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991	Eliminated.	Reclaimed, Phase I Bond Release, 11/10/86, Phase II Bond Release, 1/30/96.
ACT/015/007, CONSOLIDATION COAL COMPANY, HIDDEN VALLEY MINE				
Portal Faceup Area	Post-SMCRA, 1980.	Reclaimed. Refer to Hagen letters dated 12/11/91 and 12/17/91 concerning mines receiving bond release prior to December, 1991.	Eliminated.	Reclaimed, Phase I Bond Release, 7/17/88.
ACT/015/009, ENERGY WEST MINING COMPANY, TRAIL MOUNTAIN MINE				
Trail Mountain Fan Portal	Pre-SMCRA, modified and extended highwall area in 1993.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Diesel Roadway Portal	Post-SMCRA, 1993	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Belt Portal	Pre-SMCRA, modified in 1993.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Return Portals adjacent to Belt Portal	Pre-SMCRA, Collar added in 1994.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Active.
Portals, old	Pre-SMCRA	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3.5.4.2, pp. 3-62, Plate 3-5.	Elimination.	Sealed.
Return Entry	Post-SMCRA, 1991.	Trail Mountain Mine, Surface Facilities Map, Highwall Survey (Submitted with questionnaire). Volume 1, pages 3-57, 3-60 thru 3-62, Section 3 5 4 2, pp 3-62, Plate 3-5	Elimination.	Active.
ACT/015/015, CONSOLIDATION COAL COMPANY, EMERY DEEP MINE				
Main Portal Area	Pre-SMCRA, 1945	Chapter III, Plate III-8. Retention - portals are located at the base of a natural cliff which will remain after reclamation.	Retention, cliff replacement.	Operations are currently in temporary cessation.
4 East Portals	Proposed.	Plans approved for 4 East Portal construction in 1990 but have not been constructed	Elimination.	Proposed.
ACT/015/017, ENERGY WEST MINING COMPANY, DES-BEE-DOVE MINE				
Deseret Mine Portals	Pre-SMCRA, 1948-1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1	Elimination	In Temporary Cessation
Beehive Mine Portals	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Little Dove Mine Portals	Pre-SMCRA, April 1977	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	In Temporary Cessation
Deseret: Stump Flat Breakout	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	Sealed, no highwall associated with breakout.
Beehive: 10 th East Breakout	Pre-SMCRA, 1974	Volume 2, pg. 4-3, 4-4, 4-6, and 4-105, Plate 4-1.	Elimination	Sealed, no highwall associated with breakout.
ACT/015/018, ENERGY WEST MINING COMPANY, DEER CREEK MINE				
Deer Creek Main Portals	Pre-SMCRA, 1970 3 Portals	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Belt Portal	Pre-SMCRA, 1970 1 Portal	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Main Fan Shaft	Interim, August, 1977 1 Shaft	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Active
Old McKinnon Fan Portals	Pre-SMCRA, pre-1970's 2 Portals	Volume 2, pg. 4-5 thru 4-7.	Deficient, no definitive reclamation plan for this area.	Portals are sealed and backfilled, highwall backfilling pending final reclamation of active operations.
9 th East Portals above Wilberg Mine	Interim, May, 1977 3 Portals	Volume 2, pg. 4-5 thru 4-7.	No Highwall associated with openings.	Active

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
9 th East Portals, Meetinghouse Canyon	Post-SMCRA, 1986 2 Portals	Volume 2, pg. 4-5 thru 4-7.	No Highwall associated with openings.	Active
Rilda Canyon Breakouts	Post-SMCRA, 1995 2 Portals	Volume 2, pg. 4-5 thru 4-7.	Elimination	Active
ACT/015/019, ENERGY WEST MINING COMPANY, COTTONWOOD/WILBERG MINE				
Wilberg Mine Fan	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Wilberg Fan Portal	Post-SMCRA, 1978-1979.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Belt Portal, Wilberg	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Intake Portal, Wilberg	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Underground Offices	Pre-SMCRA, 1975-1976.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Old Portals, Shop Area	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Old Portals, Water Tank	Pre-SMCRA, 1973.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Portals, Wilberg, before mine fire	Interim, May, 1977.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Sealed
Mine Access Tunnel, Cottonwood	Post-SMCRA, 1982-1983.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Intake Portals, Cottonwood	Post-SMCRA, 1982, 1985	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Fan Access Tunnel	Post-SMCRA, 1982-1983.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Fan Portal, Cottonwood	Post-SMCRA, 1984	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Belt Portal, Cottonwood	Post-SMCRA, 1984	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Canyon Portal	Post-SMCRA, 1995.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Cottonwood Canyon Fan Portal	Post-SMCRA, 1995.	Volume 2, pg. 4-2 thru 4-3, 4-4.1. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
Cottonwood Canyon Fan Portal Faceoff	Post-SMCRA, 1980.	Volume 2, pg. 4-2 thru 4-3, Volume 6, 4-6, 4-7, 3-14, Fig. 1, Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	Deficient, no definitive reclamation plan for this area.	Active
Miller Canyon Breakouts	Post-SMCRA, 1981/	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	No highwall associated with openings.	Sealed
Channel Canyon Breakouts	Post-SMCRA, 1989.	Volume 2, pg. 4-2 thru 4-3. Cottonwood Mine, Surface Facilities Map, Highwall Survey (submitted with questionnaire).	No highwall associated with openings.	Sealed
ACT/015/021, CO-OP MINING COMPANY, TRAIL CANYON MINE				
Portal Area	Pre-SMCRA, 1047.	Reclaimed. Refer to ALJ decision dated 6/6/94.	Eliminated.	Reclaimed, Phase I Bond Release, 7/18/94, Phase II Bond Release, 1/31/96.
ACT/015/025, CO-OP MINING COMPANY, BEAR CANYON MINE				
Hiawatha Intake	Post-SMCRA, after May 3, 1978	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Hiawatha Belt	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Intake	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 2-5.	Elimination.	Active.
Blind Canyon Belt	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Fan	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pg. 3-72.p. 3-72 through 74, Plate 3-2E.	Elimination.	Active.
Bear Canyon Fan	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 3-2C.	Elimination.	Active.
Blind Canyon Fan #2	Post-SMCRA	Plates 2-4C, 2-4E, 2-5, Section 3.6.4.2, pp. 3-72 through 74, Plate 2-5	Elimination	Active
ACT/015/032, GENWAL RESOURCES, CRANDALL CANYON MINE				
Portal Area - North Side	Pre-SMCRA, 1940's Re-activated in 1983, 4 Portals	Plate 5-3 Operator has submitted revised mine plan information regarding highwall elimination as an amendment to the plan,. Currently under review by the Division as Amendment 97A.	Deficient, not Discussed in Plan.	Active
Portal Area - South Side	Proposed, Not yet constructed	Refer to Crandall Creek Culvert Amendment Complete highwall elimination proposed in the plan	Elimination.	Proposed.
PRO/017/001, GARFIELD COAL COMPANY, DAVIES COAL MINE				
Under Permit Application		Not yet permitted.		Proposed

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AREA	CREATION DATE	MRP REFERENCE - COMMENTS	ELIMINATION / RETENTION	CURRENT STATUS
ACT/041/002, CANYON FUEL COMPANY, SUFCO MINES				
SUFCO Mine Area	Pre-SMCRA	Appendix 5-2, Volume 6 describes cutslopes. Appendix 5-2, Plates 1 and 2 provide locations and cross sections. Reclamation plan are found in Volume 2, Chapter 5 Sections 5.4.2.2, 5.5.3.1, and 5.5.3.6 and Volume 6 Appendix 5-2, Section 5.0.	Retention, R645-301-553.500.	Active.
ACT/041/005, BHP PETROLEUM AMERICAS, KNIGHT MINE				
Main Portals Area	Fall, 1977 3 Portals	Reclaimed under Interim Regulations in 1987	Complete Elimination, upheld in ALJ hearings. Cut slopes above the portal areas were incorporated into the design as part of highwall elimination.	Reclaimed, Phase I Bond Released on November 8, 1994.
Old Portals Area	Pre-SMCRA	Reclaimed - not part of permitted mining operations.	Pre-SMCRA (AMR eligible) This area was reclaimed by the operator, but not as part of the permitted mining operations. Portals were closed but cuts remain relative to the road, pad and portal structures	Gratuitous Reclamation by operator.
ACT/043/008, SUMMIT COAL COMPANY, BOYER MINE				
Mine Area	Post-SMCRA 1986, 3 portals	Reclamation accomplished by DOGM following bond forfeiture.	Complete elimination as per plans and specifications written by the Division in the construction contract for the Boyer Mine.	Reclaimed, final.



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

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August 21, 1997

Mr. James F. Fulton, Chief
Denver Field Division
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-5733

Re: OSM Suggested Program Amendment (732) Letter of June 16, 1997

Dear Mr. ^{Jim}Fulton:

The Division has reviewed the above-cited letter which lists needed changes in the Utah Coal Regulatory Program resultant from federal statute and rule changes. This communication is the Utah response to the suggestions included in your letter.

We have developed a preliminary course of action and rulemaking timetable to address the program change suggestions, both of these items are included below. Unless otherwise stated, each rule revision is intended to be made in accordance with the OSM suggestion and would be submitted to OSM by December 15, 1997. Optional program revisions are not considered at this time.

Please let me know if there is any clarification needed on the State's intended course of action and timetable.

<u>Section in 732 Letter</u>	<u>Federal Citation</u>	<u>Utah Citation</u>
I. Prime Farmland		
I.A.1	785.17(e)(5)	R645-302-316.500
Action Planned: This change would be made in accordance with the OSM suggestion.		
I.A.2	30CFR 823.11(a)	R645-302-317
Action Planned: None, the provision for an exemption from the Prime Farmland standard is not included in the Utah Program.		
II. Reclamation under Initial Program		
II.A.		
Action Planned: None required.		

<u>Section in 732 Letter</u>	<u>Federal Citation</u>	<u>Utah Citation</u>
III. Administrative Review for Civil Penalties		
III.A.	30 CFR 723.19(a)	R645-401-810
Action Planned: This change would be made in accordance with the OSM suggestion.		
IV. Methods for Service of Process for Notices of Violation, Cessation and Show Cause Orders, and Proposed Civil Penalty Assessments.		
IV.A.		
Action Planned: None required.		
V. Bond Release Requirements		
V.A.	30 CFR 800.40(a)(3)	R645-301-130
Action Planned: This change would be made in accordance with the OSM suggestion.		
VI. Backfilling and Grading		
VI.A.1.	30 CFR 761.5	R645-100-200
Action Planned: This change would be made in accordance with the OSM suggestion.		
VI.A.2.	30 CFR 780.14(c) and 784.23(c)	R645-301-512.100
Action Planned: None, certification of documents by a qualified, registered professional engineers is provided for at R645-301-512.100.		
VI.A.3.	30 CFR 785.16	R645-301-528.320
Action Planned: None, the provision for limiting variances from the Approximate Original Contour requirements to steep slopes already exists at R645-301-528.320.		
VI.A.4.	30 CFR 816.81(a) 30 CFR 817.81(a)	R645-301-528.320
Action Planned: None, the prohibition on end and side dumping is found at R645-528.320 and the requirements for stability and non-combustibility are at R645-301-536.210 and 536.230.		
VI.A.5.	30 CFR 815.104(a)	R645-301-535.700 & R645-301-535.800
Action Planned: This change would be made in accordance with the OSM suggestion.		
VII. Termination of Jurisdiction		
VII.A.	30 CFR 700.11(d)	R645-100-452
Action Planned: None, the provision for re-asserting jurisdiction when the need arises exists at R645-301-452.		

<u>Section in 732 Letter</u>	<u>Federal Citation</u>	<u>Utah Citation</u>
VIII. Previously Mined Area		
VIII.A.	30 CFR 701.5	R645-100-200
Action Planned: This change, a revised definition for "previously mined area" would be made in accordance with the OSM suggestion.		
IX. Land Use Information		
IX.A. -- Land Use Information		
Action Planned: None required.		
X. Small Operator Assistance Program (SOAP)		
X.A.1.	30 CFR 795.3	R645-100-200
Action Planned: This change would be made in accordance with the OSM suggestion.		
X.A.2.	30 CFR 795.6(a)(2)(i) &(ii)	
X.A.3.	30 CFR 795.9(a) & (b)(1) through (b)(6)	
X.A.4.	30 CFR 795.12(a), (a)(2), and (a)(3)	
Action Planned: These changes would all require that Utah revise its statutory authority, since basic parts of the Small operator Assistance Program are involved. This action will be discussed for inclusion in the Division's legislative agenda in 1998. Any change made would probably be made at UCA 40-10-10(3).		
XI. Hydrology and Compliance in the National Resource Conservation Service (NRCS) Publication Technical Release No. 60 (TR-60)		
<u>*** Note, all changes proposed under this section (XI) are subject to final technical review of the Hydrologic working group of the Division.</u>		
XI. A.1.	30 CFR 701.5	R645-100-200
Action Planned: This change would be made to modify the definition of "other treatment facilities" in accordance with the OSM suggestion.		
XI.A.2.	30 CFR 701.5	R645-100-200
Action Planned: This change would be made in accordance with the OSM suggestion to change the location of the definition of "siltation structure" within the rules.		
XI.A.3.	30 CFR 784.16(a), (a)(2), and (3), (b), (c)(3), and (f).	
Action Planned: This change would be made in accordance with the OSM suggestion.		
XI.A.4.	30 CFR 816.49(a)(1), et seq. and 817.49(a)(1), et seq.	
Action Planned: This change would be made in accordance with the OSM suggestion.		

<u>Section in 732 Letter</u>	<u>Federal Citation</u>	<u>Utah Citation</u>
XII. Abandoned Sites XII.A.	30 CFR 840.11(g)(4), (4)(i) and (ii), (h), (h)(1), (1)(i) through (vii), and (h)(2)	R645-400-132 & R645-100-200

Action Planned: This change would be made in accordance with the OSM suggestion to establish a minimum inspection frequency of once per year for abandoned sites.

XIII. Remining of Lands Eligible for Expenditures Under Sections 402(g)(4) and 404 of SMCRA.

Action Planned: None required.

I look forward to working with your office in accomplishing this rulemaking agenda. Please let me know if there are any questions on this rulemaking effort or if there is a need to modify the schedule.

Rulemaking Timetable

<u>Activity</u>	<u>Date Planned</u>
1. Draft Rules for Informal Review	9/01/97
2. Formal Review Begins	10/01/97
3. Final Rules for Submittal to OSM	12/15/97
4. Approval of Rules by OSM	3/01/98
5. Implementation	3/02/98

Thank you for your attention to this matter.

Sincerely,



Lowell P. Braxton
Acting Director



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

File

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

August 21, 1997

Mr. James F. Fulton, Chief
Denver Field Division
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-5733

Re: Water Replacement and Subsidence Rules, Request for Additional Time

Dear Mr. ^{James}Fulton:

Your comments of July 25, 1997 on the Utah informally proposed program amendment on subsidence and water replacement were welcome, and will be helpful to the Division in charting its course of adopting water replacement and subsidence rules in the Coal Regulatory Program. We are now at a point in the development of the final draft of the proposed rules, and find that we are compelled to devote more time to the informal stage of the rulemaking process. I am requesting an extension of the OSM-approved deadline of August 30, 1997 for the submittal of the water replacement and subsidence rules.

I hereby request until December 15, 1997 to submit a final draft of the rules for water replacement and subsidence. With this extension, the Division should have adequate time to develop and submit a final rule as a formal program amendment.

My staff will review the rule comments included with your July 25 letter and if more discussion is needed, will meet with your office for discussion. Please let me know if I can provide more information on this request.

Sincerely,


Lowell P. Braxton
Acting Director

dr
UT037inf.ltr



IN REPLY REFER TO:

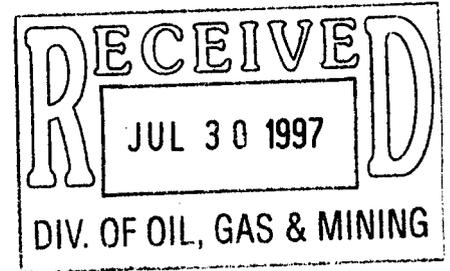
United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

July 25, 1997

James W. Carter, Director
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801



Dear Mr. Carter:

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed review of Utah's June 25, 1997, informally-proposed amendment (State Program Amendment Tracking System (SPATS) No. UT-037-INF). The amendment consists of rules concerning subsidence control and water replacement. OSM finds those provisions of the proposed amendment identified in the enclosure to this letter to be less effective than the Federal counterpart regulations.

We are available to meet with you to discuss our review findings or any matters of concern regarding the proposed amendment. If you have any questions, please call Dennis Winterringer, Senior Environmental Protection Specialist, at (303) 844-1440.

Sincerely,

James Fulton

James F. Fulton, Chief
Denver Field Division

Enclosure

cc: Regional Solicitor,
Rocky Mountain Region

*file orig: OSM Incoming
cc: MAW, PCL, RWD
Done in*

**ISSUES IDENTIFIED BY OSM FOR UTAH'S JUNE 25, 1997, INFORMALLY-
PROPOSED AMENDMENT (SPATS NO. UT-037-INF)**

1. Definition for "material damage."

R645-100-200

30 CFR 701.5

At R645-100-200, Utah proposes to define "material damage" "for the purposes of R645-301." At 30 CFR 701.5, OSM defines "material damage" "in the context of §§ 784.20 and 817.121."

Referenced R645-301 is the section of Utah's rules that contains the coal mine permitting requirements, which includes performance standards. R645-301 is a less specific reference than 30 CFR 784.20 and 817.121, which respectively address permit application requirements for subsidence control plans and performance standards for subsidence control. Utah's general reference to R645-301 does incorporate the rules at R645-301-525.100 through .290 and R645-301-525.300 through .500, which directly correspond to 30 CFR 784.20 and 817.121. However, Utah's general reference to R645-301 also incorporates R645-301-729.100, which addresses "material damage" in the context of cumulative hydrologic impact assessments (CHIA's) rather than subsidence control.

To avoid any misapplication of the definition of "material damage" at R645-100-200 to the CHIA requirements at R645-301-729.100 and to avoid any confusion by the public that is not familiar with Utah's rules, Utah should revise the phrase "for the purposes of R645-301" in its proposed definition of "material damage" at R645-100-200 to read "for the purposes of R645-301-525."

2. Deleted subsidence control rules.

R645-301-525.240 - .270

30 CFR 817.121(d) - (g)

Utah proposes to delete its subsidence control rules at R645-301-525.240 through .270. The counterpart Federal regulations at 30 CFR 817.121(d) through (g) still exist (i.e., OSM did not delete them in the final rule Federal Register notice that was published March 31, 1995 (60 FR 16722)). To be no less effective than the Federal regulations at 30 CFR 817.121(d) through (g), Utah cannot delete from its regulatory program the requirements contained in its rules at R645-301-525.240 through .270.

3. Repair or compensation for subsidence damage to noncommercial buildings, dwellings, and related structures.

R645-301-525.520

30 CFR 817.121(c) (2)

In the proposed rule at R645-301-525.520, Utah provides in part that the requirements of this paragraph apply only to subsidence-related damage caused by "underground mining activities" conducted after October 24, 1992. In order for this rule to be consistent with the definitions at R645-100-200, Utah should revise the proposed rule to use the defined term "underground coal mining and reclamation activities" rather than the undefined term "underground mining activities."

4. Repair or compensation for damage to structures or facilities other than noncommercial buildings, dwellings, and related structures.

R645-301-525.530

30 CFR 817.121(c) (3)

At R645-301-525.530, Utah proposes that the permittee must, "to the extent required under applicable provisions of State law," either (1) repair material damage caused by subsidence to structures and facilities other than noncommercial buildings, dwellings, and related structures or (2) compensate the owner for the material damage to these structures or facilities.

Although the proposed rule is substantively identical to the corresponding Federal regulation at 30 CFR 817.121(c) (3), OSM suggests that the rule be revised to reflect the requirements of State law. If State law does not limit the repair or compensation for subsidence-caused damage to these structures or facilities, Utah should delete the phrase "to the extent required under applicable provisions of State law" from this rule. If State law does limit the repair or compensation, Utah should delete the phrase and reference the law and/or incorporate the requirements of the law into this rule. These revisions would clarify in one place the requirements that apply.

5. Rebuttable presumption of causation by subsidence.

R645-301-525.540

30 CFR 817.121(c) (4) (i)

The Federal regulation at 30 CFR 817.121(c) (4) (i) establishes a rebuttable presumption that the permittee of an underground mine is responsible for any structural damage caused by earth movement within a 30 degree angle of draw from the outermost boundary of underground mine workings to the land surface. As explained in

the preamble for this regulation, this is a nationwide standard that is applicable to all States (March 31, 1995, 60 FR 16722, 16737 - 16741). However, as set forth in 30 CFR 817.121(c)(4)(i), a State regulatory authority may adopt for its regulatory program an angle of draw different from 30 degrees if it analyzes geotechnical factors in the State and demonstrates in writing to OSM that a different angle of draw is more reasonable for the State.

At R645-301-525.540, Utah does not propose a specific angle of draw requirement that would apply to all mines statewide. Rather it proposes to establish in the permit review and approval process a site-specific angle of draw criterion for each mine. This proposal is not consistent with the requirements of 30 CFR 817.121(c)(4)(i) and the preamble rationale upon which this Federal regulation is based. To be no less effective than 30 CFR 817.121(c)(4)(i), Utah must revise R645-301-525.540 to include a specific angle of draw criterion that applies statewide. If the proposed criterion is not 30 degrees, Utah will need to submit written geotechnical documentation to OSM demonstrating that a different angle of draw is more reasonable for the State of Utah.

6. Water supply replacement.

R645-301-731.530

30 CFR 817.41(j)

At R645-301-731.530, Utah proposes that "[t]he permittee will promptly replace any State-appropriated water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the Division received the permit application * * *" (emphasis added). In two respects, Utah is inconsistent in the terms that it uses in this proposed rule.

In the proposed rule at R645-301-731.530, Utah in effect equates the terms "State-appropriated water supply" and "affected well or spring". At R645-100-200, Utah defines "State-appropriated water supply" to mean "State-created water rights which are recognized under the provisions the Utah Code." Because the definition encompasses more types of water supplies than wells or springs, Utah's equating of the terms "State-appropriated water supply" and "affected well or spring" in the rule creates an inconsistency between the definition and rule. Utah could resolve this inconsistency by replacing the phrase "affected well or spring" in R645-301-731.530 with the phrase "water supply."

In the proposed rule at R645-301-731.530, Utah uses the undefined term "underground mining activities." To be consistent with its definitions at R645-100-200, Utah should revise the proposed rule to instead use the defined term "underground coal mining and reclamation activities."

Water Replacement
Rules.

Signed copy
in Board
File. No
Rocket # yet.
9-4-97

July 25, 1997

James W. Carter, Director
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801

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Sincerely,

Orig signed by -
James F. Fulton, Chief
Denver Field Division

Enclosure

cc: Regional Solicitor,
Rocky Mountain Region

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IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

**COPY FOR YOUR
INFORMATION**

July 8, 1997

United States Department of the Interior
Bureau of Land Management
Attn: Mr. Jim Edwards, Resource Supervisor
2850 Youngfield Street
Lakewood, CO 80215

*Copy Mary Ann,
Daron, Joe, Dan
file OSM meeting*

RE: PERFORMANCE BOND RELEASE ON FEDERAL LANDS COAL MINES

Dear Mr. Edwards:

Thank you for taking the time on May 21 to meet with Henry Austin of my staff and provide Bureau of Land Management (BLM) input concerning coordination between the Office of Surface Mining (OSM); Colorado Department of Natural Resources, Division of Minerals and Geology (DMG); and BLM to clarify the procedures necessary for performance bond release on federal lands coal mining operations in Colorado.

Both OSM and DMG recognize BLM's concurrence role in the release of these performance bonds and we felt it would benefit all agencies to establish an agreed upon document which defines the required actions and responsibilities of our respective agencies. The intent of the document is to enhance and expedite the coordination necessary between our agencies during the bond release process.

OSM feels the enclosed document establishes appropriate milestones and guidance in the bond release process from receipt of the application, through the required bond release inspection, and agency concurrence with DMG's proposed decision to release bond.

OSM acknowledges your concern regarding BLM participation in the bond release process for federal mines to the extent that individual release applications may not involve either BLM surface or federal coal ownership, yet require BLM concurrence to conclude the release. OSM remains ready to review and modify this process if necessary based on BLM recommendations.

OSM wishes to acknowledge the contributions of the DMG staff who reviewed, provided comments, and enabled completion of the enclosed procedures document. OSM understands you will distribute the procedures document as necessary to the BLM Resource Area Offices in Colorado.

Thank you and your staff again for your involvement. Please address any questions regarding implementation of these procedures to Henry Austin at (303) 844-1466 or E-mail to haustin@osmre.gov.

Sincerely,

James F. Fulton

James F. Fulton, Chief
Denver Field Division

Enclosure

PROCEDURES FOR COOPERATING STATE AND FEDERAL
REGULATORY AGENCIES TO PROVIDE MUTUAL CONCURRENCE
ON THE RELEASE OF PERFORMANCE BONDS FROM
FEDERAL LANDS COAL MINING OPERATIONS

JUNE 30, 1997

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
WESTERN REGIONAL COORDINATING CENTER
DENVER FIELD DIVISION

This bond release procedures document applies to federal lands coal mining operations (both surface and underground coal mines) which are regulated under a cooperative agreement through the Surface Mining Control and Reclamation Act (SMCRA) and individually approved State Regulatory Programs. The Office of Surface Mining Reclamation and Enforcement (OSM) through the Code of Federal Regulations at 30 CFR is responsible for providing bond release concurrence to State Regulatory Authorities (SRA) where the SRA is responsible for implementing a coal mining regulatory program approved by the Secretary of the Interior. These performance bonds for federal lands mines are jointly payable to The United States of America and the respective SRA.

SRA's operating under primacy (designated by the Secretary of the Interior as the primary agency responsible for implementation of a coal mining regulatory program in that state) assume the lead roll whenever their regulatory program actions require coordination and/or formal written concurrence from other state or federal agencies. This document is intended to clarify the process for initiation, follow-up, and completion of various stages in the bond release process.

The Colorado Department of Natural Resources, Division of Minerals and Geology (DMG) located in Denver, CO, has primacy for regulation of coal mining operations in Colorado. OSM's Western Regional Coordinating Center (WRCC) also located in Denver, CO, has federal oversight responsibility for the DMG regulatory program. The United States Department of the Interior, Bureau of Land Management (BLM), authorizes federal coal leases on all federal lands. BLM along with other state and federal land management agencies are also responsible for authorizing leases or permits for disturbance of surface lands under their jurisdiction which will be affected by coal mining operations. Federal coal lease bonds and state or federal bonds for leasing or permitting surface lands are in addition to the performance bond required by the SRA and not the subject of this bond release procedures document.

The Denver Field Division (DFD) of OSM's Western Regional Coordinating Center in cooperation with DMG and BLM in the State of Colorado is proposing the following bond release procedures in an effort to both clarify and expedite the mutual concurrence process required for partial or full release of performance bonds on federal lands coal mining operations.

**PROCEDURES FOR PROCESSING BOND RELEASE
APPLICATIONS ON FEDERAL COAL MINES
IN COLORADO**

1. Partial or full performance bond release application for a federal coal mine is submitted by the permittee simultaneously to DMG, BLM, and OSM/DFD.
 - Three copies of the application submitted to DMG
 - One copy of the application submitted to OSM
 - One copy of the application submitted to BLM / Resource Area Office
2. DMG and/or DFD acknowledges receipt of the application through the DMG/OSM Oversight Team (Team) via telecommunication (telephone or E-mail).
3. DFD confirms application receipt with the BLM / Resource Area Office (BLM) via telecommunication and specifies both the nature of the bond release and pending notification of the bond release inspection date.
4. DMG notifies DFD via telecommunication of the scheduled bond release inspection date. DFD notifies BLM via telecommunication of the scheduled inspection date upon notification from DMG. BLM notifies DFD via telecommunication prior to the scheduled inspection date and indicates whether BLM will participate in the inspection.
5. DFD notifies DMG via telecommunication prior to the inspection date and indicates if DFD and/or BLM will participate in the inspection. The Team agrees on logistics for the inspection and DFD notifies BLM via telecommunication of logistical agreement (time, meeting place, transportation, equipment needs, etc.).
6. The bond release inspection is conducted. DMG assumes the lead during the inspection and inspection participants follow DMG's direction. DMG determines when the inspection is completed after consulting with inspection participants. DMG provides an on site inspection close out meeting with all inspection participants and requests preliminary questions/comments concerning the inspection. As the lead agency DMG assumes control over the length/depth of the close out meeting. If OSM is unable to attend a scheduled DMG bond release inspection and schedules a separate inspection, OSM will provide both DMG and BLM with advance notification of the inspection and an opportunity to attend.

7. **OSM provides one copy of the Mine-Site Evaluation Inspection Report for the bond release inspection to DMG, BLM, and the permittee. DFD and BLM acknowledge that technical review issues and /or any other problems identified with the bond release application or inspection will be provided to DMG as soon as they are identified with the intention being to provide DMG this information prior to DMG's proposed decision.**
8. **DMG simultaneously provides one copy of the Proposed Decision and Findings of Compliance for the bond release application and inspection to DFD, BLM, and the permittee. DFD acknowledges receipt of the proposed decision via telecommunication to DMG and BLM. If no issues were identified by DFD and/or BLM, or issues noted have been resolved, DFD and BLM will provide concurrence on the proposed decision. BLM will provide a concurrence letter to DFD and notify DFD via telecommunication of when to expect the letter. DFD will provide a concurrence letter to DMG and include a copy of the BLM concurrence. DFD will copy its concurrence to BLM and the permittee. Both BLM and DFD will provide their concurrence within the 30 day period beginning with DMG's first newspaper publication of the proposed decision.**
9. **If technical review issues and/or other problems identified remain unresolved at the time DMG distributes its Proposed Decision, DFD and/or BLM will submit to DMG a current written assessment of those issues including timelines for both additional review and resolution of the issues. Either DMG or DFD, through the current Team, may implement the issue resolution methods found at Part V. of the February 6, 1996, Oversight Agreement in order to expedite resolution of issues. If necessary, the Team will request BLM participate in the issue resolution meetings.**

IF ALL PARTIES CONCUR WITH THE PARTIAL OR FINAL BOND RELEASE, THEN THE FOLLOWING STEPS ARE TAKEN TO RETURN THE PHYSICAL BONDING DOCUMENTS TO THE PERMITTEE:

I. Partial Release

1. If a partial (phase) release where a reduction to the bond sum is approved, then DMG notifies the permittee that the bond amount may be reduced and copies DFD on the letter.

a. The permittee submits a bond rider, letter of credit amendment, or a replacement bond to effect the change in the required dollar sum of the bond. DMG notifies DFD when the rider/amendment has been approved by DMG for the new amount.

b. If the permittee wants to replace an existing bond with a new bond for the new, lower amount, and the replaced bond requires an indorsement (CD), DMG's bonding specialist will mail (certified mail) or hand-deliver the CD to the WRCC bonding specialist who will obtain the indorsement of the Bond Approving Officer and prepare any letter to the DMG/Bank or Permittee that may be necessary.

c. The CD will be endorsed as Pay To The Order of "Permittee," and signed by the DMG Director and the WRCC Bond-Approving Officer. After it has been indorsed by WRCC, the WRCC bonding specialist will mail (certified mail) or hand-deliver the indorsed CD to the DMG bonding specialist for return to the permittee under a cover letter prepared by DMG and copied to DFD.

d. If the bond being replaced is a surety bond or letter of credit, no action on WRCC's part will be necessary. The action can be treated like any other bond replacement action. DMG will notify DFD of the change to the dollar sum when the replacement bond has been approved by DMG. (Some surety companies/banks may ask for written concurrence from OSM along with DMG even when a bond/loc is just being replaced. If this occurs, the DMG bonding specialist will notify the WRCC bonding specialist, providing the pertinent information, and the WRCC bonding specialist will prepare a letter for the signature of the WRCC Bond-Approving Officer and mail it to DMG).

e. If the bond being replaced is a book-entry U.S. Treasury Note, Bond, or Bill, then the WRCC bonding specialist will prepare a letter from the WRCC Bond-Approving Officer to the appropriate Federal Reserve Bank where the security is held authorizing OSM's release of the security as a Federal pledgee. DMG's bonding specialist will have provided the WRCC bonding specialist with the pertinent information about the Treasury security: CUSIP number(s), dollar amount, name and location of the Federal Reserve Bank and contact person where the security is held, Permittee's name, address, and permit number.

Note: The Federal Reserve Bank will not release a Treasury security on which OSM is a Federal pledgee without the authorizing signature of WRCC/OSM's Bond-Approving Officer along with the authorizing signature of the DMG Director (31 CFR Section 225.15).

II. Final Release

2. If all parties concur with the final bond release, then DFD and DMG notify their respective bonding specialists. DMG's bonding specialist will provide WRCC's bonding specialist with a copy or pertinent information about the instrument(s) being released:

- Bond type and number
- Bank or Surety Co.'s name and address
- Dollar amount
- Execution/issue date
- Permit number
- Permittee's name and address
- Name and address of Federal Reserve Bank if a US Treasury security

3. The DMG bonding specialist will retrieve the original bonding instrument from safekeeping and retain canceled copies for the permit file.

4. The DMG bonding specialist, (or other assigned party) will draft a release letter for the signature of the Director, and obtain the Director's indorsement or signature on documents such as a CD, Release of Deed of Trust, etc.

5. Concurrently, the WRCC bonding specialist will prepare a letter of concurrence for the WRCC Bond-Approving Officer notifying DMG and the appropriate surety company, bank, Federal Reserve Bank, etc. of OSM's concurrence with the release of liability under the bond(s).

6. In the case of a CD or Release of Deed of Trust or other document that needs an indorsement or signature, DMG will mail (certified mail) or hand-deliver the instrument(s) to the WRCC bonding specialist who will obtain the indorsement/signature of the Bond-Approving Officer and mail or return the instrument(s) to DMG's bonding specialist along with the concurrence letter.

7. For final release of a CD or Treasury security, also see steps 14 (c) and (e) above where the steps needed for partial release involving a bond replacement, and the steps needed for a final release are the same.

Note: If there are multiple bonds on a permit being released and the bonds are different kinds of instruments, DMG's letter releasing the instruments, and OSM's letter concurring with the release will need to include the applicable language and follow the procedures appropriate for each bond and bond type being released. If needed, the DMG and WRCC bonding specialists can work together to determine what is needed to accomplish the return and release of all bonds covering a reclaimed permit area.

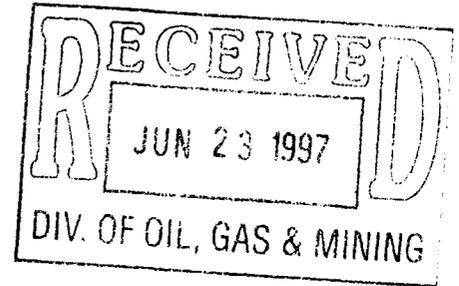


IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733



JUN 19 1997

Mr. James W. Carter, Director
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801

Dear Mr. Carter:

During the past several years, the Office of Surface Mining Reclamation and Enforcement (OSM) promulgated several new or revised regulations. Under 30 CFR 732.17(d), OSM must notify States of all changes in the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., and the implementing Federal regulations that may require a State to modify its regulatory program to remain consistent with all Federal requirements. Pursuant to 30 CFR 732.17(c), OSM also must notify States whenever it determines that such amendments are in fact required.

OSM has determined that States must amend their programs as necessary to be no less stringent than SMCRA, as amended, and no less effective than the changes which resulted from the promulgation of implementing Federal regulations. The enclosed list of changes provides only an abbreviated description of the potentially required amendments; the full Federal Register text and preamble (enclosed) should be consulted when developing the precise language of revisions to their State regulatory programs.

OSM is aware that some States have submitted amendments and received approval for revisions to their regulatory programs made in response to some of these changes to the Federal requirements. However, we suggest that even these States review all the identified changes on the attached issues list to ensure no further modifications of their State regulatory programs are necessary. Following your review of the enclosed list, we will be glad to discuss how these changes relate to your program.

In accordance with 30 CFR 732.17(f)(1), I am requesting that, within 60 days of this letter, you submit either proposed written amendments or a description of amendments to be proposed and a timetable for enactment. The timetable should include the dates by which you intend to submit the amendments and a schedule for

the State legislative and rulemaking procedures. As always, if you believe no amendment is necessary in a specific instance, OSM will consider any rationale you wish to submit.

In all amendments that you submit in response to this 30 CFR Part 732 letter, I ask that you clearly identify the requirements of this letter that the amendments are intended to resolve. For example, when submitting a State rule revision in response to the Federal backfilling and grading permitting requirements at 30 CFR 785.16 (published at 56 FR 65612 on December 17, 1991), indicate that the revision is intended to resolve issue No. VI.A.3 (as identified in the enclosure to this letter). Your cooperation will help eliminate issue tracking confusion and expedite OSM's review of your amendments.

Please address all submittals to James F. Fulton, Chief, Denver Field Division. Any questions or requests for assistance also should be directed to Mr. Fulton at (303) 844-1424.

We look forward to working with you on this matter.

Sincerely,



Richard J. Seibel, Regional Director
Western Regional Coordinating Center

Enclosures

cc: Regional Solicitor
Rocky Mountain Region

Prime Farmlands
53 FR 40828, October 18, 1988

I. Prime Farmlands

A. Required program revisions

1. 30 CFR 785.17(e) (5)

Permitting requirements. This new Federal regulation provides that (a) the aggregate total prime farmland acreage must not be decreased from that which existed prior to mining; (b) water bodies, if any, constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area; and (c) the regulatory authority must approve and consent must be obtained from all affected property owners within the permit areas prior to the creation of any such water bodies on non-prime farmland areas.

2. 30 CFR 823.11(a)

Performance standards. This regulation originally included an exemption from prime farmland standards for those coal preparation plants, support facilities, and roads that are actively used over extended periods but affect a minimal amount of land in connection with underground mines. In In re: Permanent Surface Mining Reclamation Litigation II, No. 79-1144 (D.D.C.), the court remanded this provision, which OSM subsequently suspended on February 21, 1985 (50 FR 7278). In the preamble to the revised prime farmland regulations, OSM reaffirmed the suspension of this provision. Therefore, State programs that include this exemption must be revised to delete it.

B. Optional program revisions

1. 30 CFR 823.11(b)

This regulation provides an exclusion from the prime farmland performance standards of part 823 for coal mine waste storage areas associated with underground mines. This exclusion for waste storage areas applies only when coal mine waste from underground mines cannot be technologically and economically stored in underground mines or on non-prime farmland.

2. 30 CFR 823.12(c)(2)
30 CFR 823.14(d)

These regulations allow the regulatory authority to approve exceptions from the requirement to remove and reconstruct B and C soil horizons when they would not otherwise be removed by mining activities. However, the requirement to reestablish the productive capacity of prime farmland soil must still be met.

Reclamation Under the Initial Program
56 FR 6224, February 14, 1991

II. Reclamation Under the Initial Program

A. Required program revisions

None.

B. Optional program revisions

30 CFR 710.11

A new paragraph (e) was added to this regulation in order to provide initial program permittees the option of meeting counterpart permanent program performance standards in lieu of meeting the initial program requirements.

Administrative Review for Civil Penalties
56 FR 10060, March 8, 1991

III. Administrative Review for Civil Penalties

A. Required program revisions

30 CFR 723.19(a)
30 CFR 845.19(a)

Inspection and enforcement procedures. These regulations previously stipulated that a person charged with a violation had only 15 days from the date of service of the conference officer's action to pay in full or seek formal administrative review. The amended regulations were revised to stipulate a full 30 days in order to be consistent with the time frames of section 518(c) of SMCRA. States must likewise ensure that the time frames in their regulations are consistent with statutory time frames.

B. Optional program revisions

30 CFR 723.18(b)(1)
30 CFR 845.18(b)(1)

As a result of the earlier changes to the initial program regulations at 30 CFR 723.18(a) and permanent program regulations at 30 CFR 845.18(a), which extended the time within which a person assessed a civil penalty may request an assessment conference, paragraph (b) of sections 723.18 and 845.18 was revised to take into account the changes to paragraph (a). By specifying that the assessment conference be held within 60 days from the date the conference request is received rather than from the date the assessment is issued, the revised regulations provide a more realistic time frame to complete all necessary steps.

**Methods of Service of Process for Notices of Violation, Cessation
and Show Cause Orders, and Proposed Civil Penalty Assessments**
56 FR 28442, June 20, 1991

IV. Methods of Service of Process for Notices of Violation,
Cessation and Show Cause Orders, and Proposed Civil Penalty
Assessments

A. Required program revisions

None.

B. Optional program revisions

- 30 CFR 722.14(a)(2)
- 30 CFR 843.14(a)(2)
- 30 CFR 723.17(b)
- 30 CFR 845.17(b) and (b)(1)
- 30 CFR 724.17(c)
- 30 CFR 846.17(c)

These regulations were amended to provide for increased flexibility and uniformity in the methods of service of process for notices of violation, cessation and show cause orders, and proposed civil penalty assessments.

Bond Release Requirements
56 FR 59992, November 26, 1991

V. Bond Release Requirements

A. Required program revisions

30 CFR 800.40(a)(3)

Bond release application requirements. This Federal regulation was added to require that each application for bond release include a written, notarized statement by the permittee affirming that all applicable reclamation requirements specified in the permit have been completed.

B. Optional program revisions

None.

Backfilling and Grading
56 FR 65612, December 17, 1991

VI. Backfilling and Grading

A. Required program revisions

1. 30 CFR 761.5

Definitions. In response to a judicial remand, the definition of "significant recreational, timber, economic, or other values incompatible with surface coal mining operations" was revised by removing the phrase "beyond an operator's ability to repair or restore." An operator's ability to reclaim the land may no longer be used as a criterion for determining compatibility under this definition. If a State program includes this term, it must be defined consistent with this revised definition.

2. 30 CFR 780.14(c)
30 CFR 784.23(c)

Permitting requirements. The regulations at 30 CFR 780.14(c) and 30 CFR 784.23(c), which concern certification of cross sections, maps and plans, were amended to include references to sections 816.74(c) and 817.74(c), respectively, in the exception clause relating to certification of cross sections, maps and plans. The effect of this change is to clarify that only a registered professional engineer may certify designs for excess spoil fills on pre-existing benches.

3. 30 CFR 785.16

Permitting requirements. OSM has revised this regulation, concerning variances from approximate original contour (AOC), to limit the circumstances under which the regulatory authority may allow variances from the requirement to restore disturbed areas to their approximate original contour (AOC). The new regulation stipulates that AOC variances may be granted only for steep-slope surface coal mining and reclamation operations. Previously, the regulation allowed the regulatory authority to permit variances from AOC on both steep and non-steep slope terrain.

4. 30 CFR 816.81(a)
30 CFR 817.81(a)

Performance standards. The coal mine waste disposal regulations

at 30 CFR 816/817.81 were revised in response to the decision in In re: Permanent II (Round III), 620 F. Supp. at 1534-38 that remanded these regulations to the extent that they allowed end or side dumping of coal mine waste. The amended regulation requires that coal mine waste be "hailed or conveyed" instead of just requiring that it be "placed." Additional language was also added to allow the disposal of coal mine waste in mine workings or excavations and to specify that the waste be placed in a controlled manner to promote fill stability and inhibit combustibility.

5. 30 CFR 816.104(a)
30 CFR 816.105(a)

Definitions. Paragraph (a) of these sections contains revised definitions of thin and thick overburden, respectively.

B. Optional program revisions

1. 30 CFR 816.74(a) through (h)
30 CFR 817.74(a) through (h)

These regulations relax the performance standards for disposing of excess spoil on preexisting benches. To accommodate these changes, OSM also made minor revisions to 30 CFR 780.14(c), 780.35(b), and 784.23(c).

2. 30 CFR 816.89(d)
30 CFR 817.89(d)

The regulations at 30 CFR 816/817.89 were revised by deleting paragraph (d), which required that any noncoal waste defined as hazardous under section 3001 of the Resource Conservation and Recovery Act be handled in accordance with subtitle C and any implementing regulations. This provision could have been interpreted as requiring OSM and State regulatory authorities to assume permitting, inspection and enforcement responsibilities that Congress assigned to the Environmental Protection Agency.

Termination of Jurisdiction
56 FR 12461, April 10, 1992

VII. Termination of Jurisdiction

A. Required program revisions

30 CFR 700.11(d)

Permitting requirements. As promulgated on November 2, 1988, and reinstated on April 10, 1992, 30 CFR 700.11(d) sets forth criteria and procedures under which a regulatory authority may terminate jurisdiction over surface coal mining and reclamation operations and the circumstances and methods under which a regulatory authority must reassert jurisdiction. Unless a State has retained jurisdiction over all initial program sites and does not intend to terminate jurisdiction over any initial or permanent program site in the future, it must adopt counterpart provisions to ensure that there is a mechanism in place for reassertion of jurisdiction over former initial and permanent program sites when the need arises.

B. Optional program revisions

None.

Previously Mined Area
58 FR 3466, January 8, 1993

VIII. Previously Mined Area

A. Required program revisions

30 CFR 701.5

Definitions. OSM has revised the definition of "previously mined area" to restrict its scope to "land affected by surface coal mining operations prior to August 3, 1977, that has not been reclaimed to the performance standards of 30 CFR Chapter VII."

B. Optional program revisions

None.

Land Use Information
59 FR 27932, May 27, 1994

IX. Land Use Information

A. Required program revisions

None.

B. Optional program revisions

- 30 CFR 779.22(a) and (b)
- 30 CFR 780.23(a), (b), and (c)
- 30 CFR 783.22(a) and (b)
- 30 CFR 784.15(a), (b), and (c)
- 30 CFR 779.25(a)(11)
- 30 CFR 783.25(a)(11)

Permitting requirements. This rulemaking simplified the surface mining permit application requirements concerning land use information by removing 30 CFR 779.22(b)(1), (2), (3), (4), and (5), 779.22(c), and 780.23(a)(2); and by consolidating other requirements of 30 CFR 779.22(a) and (b) and 780.23(a) and (b) into new 30 CFR 780.23(a), (b), and (c). Similarly, this rulemaking also simplified the corresponding underground permit application requirements concerning land use information by removing 30 CFR 783.22(b)(1), (2), (3), (4), and (5) and 783.22(c); and by consolidating other requirements of 30 CFR 783.22(a) and (b) and 784.15(a) and (b) into new 30 CFR 784.15(a), (b), and (c).

This rulemaking also deleted the slope measurement requirements at 30 CFR 779.25(a)(11) and 783.25(a)(11) because they did not provide any additional information beyond that available in 30 CFR 777.14(a) and OSM's technical information processing system.

Small Operator Assistance Program (SOAP)
58 FR 28136, May 31, 1994

X. Small Operator Assistance Program (SOAP)

A. Required program revisions

1. 30 CFR 795.3

Definitions. The definition of "qualified laboratory" was amended by adding the phrase "or other services as specified at section 795.9" to ensure that qualified laboratories provide all the SOAP technical services that are required by section 507(c)(1) of SMCRA.

2. 30 CFR 795.6(a)(2)(i) and (ii)

Permitting requirements. This regulation was amended to revise the eligibility requirements for SOAP participation. The regulation previously limited probable total attributed annual production of coal from all locations to 100,000 tons. The amended regulation raises that limit to 300,000 tons. This change is nondiscretionary and was mandated by section 507(c)(1) of SMCRA, as amended by the Abandoned Mine Land Reclamation Act of 1990.

States may also need to revise their statutes in order to make the rule changes required by this item.

The operator's past production will be used as the standard for evaluating whether the probable total attributed annual production from all locations is expected to be within the 300,000-ton limit. In addition, subparagraphs (a)(2)(i) and (ii) were amended by increasing (from 5 to 10 percent) the baseline percentage above which ownership will play a role in determining "attributed coal production." OSM adopted the 10 percent provision to be consistent with the criteria for principal shareholders in section 507(b)(4) of SMCRA.

3. 30 CFR 795.9(a) and (b)(1) through (b)(6)

Permitting requirements. In response to passage of the Energy Policy Act of 1992, OSM amended these regulations to require funding of the following technical services:

(a) Paragraph (a) was revised to include the phrase "and

provide other services" to reflect the list of enhancements added to paragraph (b);

(b) paragraph (b)(1), which authorizes funding for the determination of probable hydrologic consequences, was revised to be consistent with section 507(c)(1)(A) of SMCRA by adding the phrase "including the engineering analyses and designs necessary for the determination;"

(c) in paragraph (b)(2), the phrase "[t]he drilling and" was added to clarify, consistent with section 507(c)(1)(C) of SMCRA, that drilling to provide rock samples for overburden analysis is an authorized service under SOAP; and

(d) paragraphs (b)(3) through (b)(6) were added per sections 507(c)(1)(B), (D), (E), and (F) of SMCRA to authorize funding for (i) cross-section maps and plans required by sections 779.25 and 783.25; (ii) collection of archaeological and historical information and related plans required by sections 779.12(b), 780.31, 783.12(b), and 784.17; (iii) preblast surveys required by section 780.13; and (iv) collection of site-specific resources information and preparation of protection and enhancement plans for fish and wildlife habitats required by sections 780.16 and 784.21.

States may need to revise their statutes in order to adopt regulations corresponding to the revised Federal regulations.

4. 30 CFR 795.12(a), (a)(2), and (a)(3)

Permitting requirements. The regulation at 30 CFR 795.12(a), which concerns applicant liabilities under SOAP, was revised by replacing the phrase "laboratory services performed" with "services rendered" in order to be consistent with similar language in section 507(c)(1) of SMCRA, as amended by the Energy Policy Act of 1992. In addition, paragraph (a)(2) was amended consistent with section 507(h) of SMCRA to stipulate that an operator who has received SOAP assistance must repay the cost of services rendered if "the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit." Finally, paragraph (a)(3) was revised to reflect the requirements of section 507(c)(1) of SMCRA, as amended by the Abandoned Mine Reclamation Act of 1990, by replacing the 100,000-ton production limit with the 300,000-ton limit.

States may need to amend their statutes before adopting regulations that correspond to the revised Federal regulations.

B. Optional program revisions

None.

**Hydrology and Compliance with Criteria in the National Resource
Conservation Service (NRCS) Publication
Technical Release No. 60 (TR-60)
59 FR 53022, October 20, 1994**

XI. Hydrology and Compliance with Criteria in the National
Resource Conservation Service (NRCS) Publication Technical
Release No. 60 (TR-60)

A. Required program revisions

1. 30 CFR 701.5

Definitions. The definition of "other treatment facilities" was revised and removed from 30 CFR 816/817.46(a)(3) to section 701.5 to centralize related definitions. The new definition of "other treatment facilities" adds the words "neutralization" and "precipitators" (common water quality treatment processes) and the phrase "to comply with all applicable State and Federal water-quality laws and regulations." This modification to the previous definition was made to clarify that the purpose of treatment facility is to comply with water quality laws, as well as to prevent additional contributions of dissolved or suspended solids to streamflow or offsite runoff.

2. 30 CFR 701.5

Definitions. In recognition of its broader applicability under the revised impoundment regulations, OSM has moved the definition of "siltation structure" from 30 CFR 816/817.46(a)(1) to section 701.5.

3. 30 CFR 780.25(a), (a)(2), and (3), (b), (c)(3), and (f)
30 CFR 784.16(a), (a)(2), and (3), (b), (c)(3), and (f)

Permitting requirements. These regulations establish requirements applicable to the design of each siltation structure, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area. OSM revised these regulations to ensure that the permitting requirements for impoundments are consistent with the performance standards for impoundments and that both are tied to NRCS (formerly the Soil Conservation Service (SCS)) and Mine Safety and Health Administration (MSHA) requirements. The revised regulations add specific references to the TR-60 criteria for dam classification (copy enclosed). In addition, OSM has expanded the scope of

these regulations by replacing the term "sedimentation pond" with "siltation structures." Also, OSM revised 30 CFR 780.25(f) and 784.16(f) by replacing the phrase "is 20 feet or higher or impounds more than 20 acre-feet" with the phrase "meets the SCS Class B or C criteria for dams in TR-60 or meets the MSHA size or other criteria of section 77.216(a) of this chapter" to make these regulations consistent with new dam classification requirements.

4. 30 CFR 816.49(a)(1), (4)(i) and (ii), (5), (6)(i), (9)(ii)(A), (B), and (C), (11)(iv), (12), and (c)(2)(i) and (ii)
- 30 CFR 817.49(a)(1), (4)(i) and (ii), (5), (6)(i), (9)(ii)(A), (B), and (C), (11)(iv), (12), and (c)(2)(i) and (ii)

Performance standards. OSM revised these performance standards for impoundments to incorporate by reference the criteria in TR-60 and require impoundments meeting Class B or C criteria in TR-60 to comply with the same stability, spillway, foundation investigation, freeboard hydrograph, inspection, and examination requirements as impoundments meeting MSHA criteria in 30 CFR 77.216(a). In addition, revised 30 CFR 816/817.49(a)(1) and (a)(5) require compliance with the "Minimum Emergency Spillway Hydrologic Criteria" table in TR-60. Additionally, for clarity, OSM moved the spillway design requirements of sections 816/817.46(c)(2)(i) through (iii) to sections 816/817.49(a)(9) and revised sections 816/817.46(c)(2) to reference sections 816/817.49(a)(9).

B. Optional program revisions

None.

Abandoned Sites
59 FR 60876, November 28, 1994

XII. Abandoned Sites

A. Required program revisions

30 CFR 840.11(g)(4), (4)(i) and (ii), (h), (h)(1), (1)(i) through (vii), and (h)(2)

Inspection and enforcement procedures. These regulations, originally promulgated on June 30, 1988, were remanded on August 30, 1990, and repromulgated in revised form on November 28, 1994. The 1988 version of paragraph (g)(4) allowed a site to be classified as abandoned on the basis that permit revocation proceedings have been initiated and are being pursued diligently. Revised paragraph (g)(4) allows a site to be classified as abandoned only in cases where a permit has either expired or been revoked. Further, revised paragraph (h) stipulates that in lieu of the inspection frequency established in paragraphs (a) and (b) of 30 CFR 840.11, the regulatory authority must inspect abandoned sites on a frequency commensurate with the public health and safety and environmental conditions present, but must always perform at least one complete inspection per calendar year. Therefore, as a result of the subject revision, those States that amended their rules according to the 1988 promulgation must revise these rules to reflect the changes in the 1994 version.

B. Optional program revisions

30 CFR 840.11(g) and (h)

The regulations at 30 CFR 840.11(g)(4) define abandoned sites. The regulations at 30 CFR 840.11(h) establish reduced inspection frequency requirements for abandoned surface coal mining operations. States that did not adopt a counterpart to the June 30, 1988 version of these regulations may wish to avail themselves of the opportunity provided by the 1994 regulations.

**Remining of Lands Eligible for Expenditures
Under Sections 402(g)(4) and 404 of SMCRA
60 FR 58480, November 27, 1995**

XIII. Remining of Lands Eligible for Expenditures Under Sections
402(g)(4) and 404 of SMCRA

A. Required program revisions

None.

B. Optional program revisions

1. 30 CFR 701.5
30 CFR 773.15(b)(4)(i)(A), (B), (C), and (C)(1) and (2),
(b)(4)(ii)(A), (B), and (C), (c)(13), and (13)(i) through
(iii)
30 CFR 785.25(a), (b), (b)(1) and (2), and (c)
30 CFR 816.116(c)(2)(ii) and (c)(3)(ii)
30 CFR 817.116(c)(2)(ii) and (c)(3)(ii)

These regulations were either adopted or revised in response to revisions made to SMCRA by the Energy Policy Act of 1992 to provide incentives to encourage the remining of lands eligible for abandoned mine land reclamation expenditures under sections 402(g)(4) and 404 of SMCRA. The regulation changes are summarized below:

(a) In accordance with sections 701(33) and (34) of SMCRA, 30 CFR 701.5 was amended by adding definitions of "lands eligible for remining" and "unanticipated event or condition;"

(b) 30 CFR 773.15 was amended by adding paragraphs (b)(4) and (c)(13) to implement section 510(e) of SMCRA and to require permit findings supporting the remining incentives of 30 CFR 773.15(b)(4) and 816/817.116(c)(2) and (c)(3), respectively;

(c) 30 CFR 785.25 was added to require that the permit application include information to support section 773.15(b)(4); and

(d) 30 CFR 816/817.116(c)(2) and (c)(3) were amended by adding paragraphs (c)(2)(ii) and (c)(3)(ii) to implement the reduced revegetation responsibility periods under section 515(b)(20)(B) of SMCRA.

States may also need to revise their statutes in order to make the rule changes identified by this item.

file: Reg. Grant



STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114-0601

MICHAEL O. LEAVITT
GOVERNOR

OLENE S. WALKER
LIEUTENANT GOVERNOR

cc: Sally Anne Brown

June 4, 1997

Office of Surface Mining Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, CO 80202-5733

SUBJECT: SAI# UT970425-060

To Whom It May Concern:

The Utah Federal Assistance Management Officer has reviewed an application from the Division of Oil, Gas and Mining in accordance with the state's rules and procedures implementing the provisions of Presidential Executive Order 12372 and the Utah Federal Assistance Management Act of 1969. This proposal requests \$1,560,624 in federal funds for Regulation of Surface Coal Mining.

This application is consistent with the needs and goals of the State of Utah. Although no specific state process recommendation is made, I request the appropriate federal officials give the application their full consideration and review.

I also respectfully request the federal agency notify both the applicant and the State Single Point of Contact (SPOC) of any action taken on this proposal. The SPOC notification should be sent to the Utah State Clearinghouse, Office of Planning and Budget, 116 State Capitol Building, Salt Lake City, Utah 84114.

Sincerely,

Michael O. Leavitt
Governor

MOL/BTB/ar

cc: Mary Ann Wright



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

1594 West North Temple, Suite 1210

Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

File

May 30, 1997

Administrative Record
Office of Surface Mining Reclamation and Enforcement
Room 115, South Interior Building
1951 Constitution Ave, N.W.
Washington, D.C. 20240
Electronic Address: osmrules@osmre.gov

Re: Comments on 62 FR 4864-4872 (1/31/97), Proposed Interpretive Rule on Prohibitions of Section 522(e) of SMCRA

Ladies and Gentlemen:

This communication is written in support of the proposed interpretive rulemaking presented in the above-cited Federal Register notice. The Office of Surface Mining has in this instance prepared a well-documented legal analysis of why it intends to not include subsidence resultant from underground coal mining within the definition of "surface coal mining operations" in state and federal coal regulatory programs and most particularly, within the prohibition of Section 522(e) of the Surface Coal Mining and Reclamation Act (SMCRA).

The state of Utah is unique in that 100% of the coal produced within its border is mined by underground methods. Utah's experience in addressing subsidence from underground coal mining is varied and dates back to the OSM approval of its regulatory program in 1981. We remain convinced that not only is it the intent of state and federal law not to regulate subsidence from underground mining as a "surface coal mining operation", but that there exist other adequate means of control provided to the states and the federal government through existing statutory provisions to be sure that the effects of subsidence are mitigated.

Utah law now contains state equivalents to Sections 516 and 720 of SMCRA. The main concern in the semi-arid west is, of course, the possibility of adverse effects to water supplies from subsidence resultant from underground coal mining. The Utah law in fact was recently amended in the 1997 legislature to extend the protection of water supplies so affected to all "State Appropriated Water", an option reached after extensive discussion among mine operators, water users, and the public.

Page 2
Office of Surface Mining
May 30, 1997

We welcome and support the clarification of SMCRA through rulemaking to not include subsidence from underground mining within the definition of "surface coal mining operation".

Thank you for the opportunity to comment on this most important issue, please let me know if I or my staff can supply you with any further clarifying information or data.

Very truly yours,


James W. Carter *for*
Director

o:subside.ltr



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

Michael O. Leavitt
Governor
Ted Stewart
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1594 West North Temple, Suite 1210
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Salt Lake City, Utah 84114-5801
801-538-5340
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801-538-7223 (TDD)

May 27, 1997

Library

Mr. James F. Fulton, Chief
Denver Field Division
Western Regional Coordinating Center
1999 Broadway, Suite 3320
Denver, CO 80202-5733

Re: Combined Submittal of 1997 Utah Legislative Changes- Senate Bill 12 and Senate Bill 142, Energy Policy Act and Response to 60 F.R., 138, pages 37002-37012, (7/19/95)

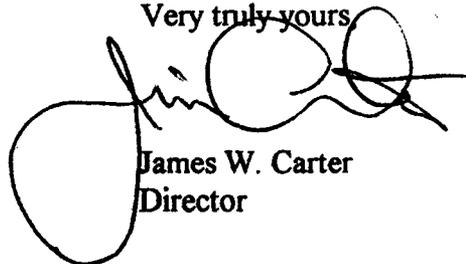
Dear Mr. ^{Jim}Fulton:

Enclosed you will find the results of the 1997 Utah Legislature's activity as it related to the Utah Coal Regulatory Program. Senate Bill 12 (S.B. 12) addresses the requirements of the (federal) Energy Policy Act of 1992 (EPACT) and is herewith submitted as a formal program amendment for your review and consideration. Senate Bill 142 (S.B. 142) addresses longstanding conditions which were set forth in the above-cited Federal Register notice and thus, should fulfill the requirements of your office's approval of UT-024-FOR. Both of the enclosed copies of these bills are enrolled versions of the State's law changes and as such, present the statutory amendments as they are recorded in the records of the Utah Legislature. Each of these bill was effective as of May 5, 1997.

You probably recall that my letter to Mr. Rick Seibel of July 25, 1996 set forth June 30, 1997 as the scheduled date of enactment of administrative rules under the Utah equivalent of EPACT. These rules are sometimes referred to as the water replacement provisions. Through this letter I am requesting an additional two months to adopt the final rules under EPACT. By August 30, 1997 I anticipate that Utah will be able to submit final rules implementing the State's water replacement provisions for your review.

Please contact me if there are any questions or I can provide additional information on this submittal.

Very truly yours



James W. Carter
Director

dr
Enclosures
o:legisto.osm

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S.B. 12 Enrolled

UNDERGROUND COAL MINING - WATER

REPLACEMENT REQUIREMENTS

1997 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Dmitrich

AN ACT RELATING TO MINING; PROVIDING FOR THE REPLACEMENT OF APPROPRIATED WATER SUPPLIES AFFECTED BY UNDERGROUND COAL MINING OPERATIONS; AND MAKING TECHNICAL AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

40-10-18, as last amended by Chapter 219, Laws of Utah 1994

ENACTS:

40-10-18.1, Utah Code Annotated 1953

40-10-18.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 40-10-18 is amended to read:

40-10-18. Underground coal mining -- Rules regarding surface effects -- Operator requirements -- Repair or compensation for damage -- Replacement of water.

(1) The board shall adopt rules directed toward the surface effects of underground coal mining operations[, embodying] *that incorporate* the requirements provided in this section. In adopting any rules, the board shall consider the distinct difference between surface coal mining and underground coal mining methods.

(2) Each permit [issued pursuant to this chapter and] relating to underground coal mining *issued pursuant to this chapter* shall require the operator to[:] *comply with this section.*

(3) (a) [Adopt] *Except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner, the operator shall adopt* measures consistent with known technology [in order] to:

(i) prevent subsidence *from* causing material damage, to the extent technologically and economically feasible[.];

(ii) maximize mine stability[.]; and

(iii) maintain the value and reasonably foreseeable use of the surface lands[, except in those

instances where the mining technology used requires planned subsidence in a predictable and controlled manner; but nothing].

(b) Nothing in Subsection [(2)] *(3)(a)* shall be construed to prohibit the standard method of room and pillar mining.

[(b) Seal] *(4) The operator shall seal* all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations.

[(c) Fill] *(5) The operator shall fill* or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible, *the* return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations.

[(d)] *(6) (a)* With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, *the operator shall* stabilize all waste piles created [by the permittee] from current operations through construction in compacted layers, including the use of incombustible and impervious materials, if necessary[, and].

(b) The operator shall assure that:

(i) the leachate will not degrade *surface or ground waters* below water quality standards established pursuant to applicable federal and state law [surface or ground waters and that];

(ii) the final contour of the waste accumulation will be compatible with natural surroundings; and [that]

(iii) the site is stabilized and revegetated according to the provisions of this section.

[(e) Design] *(7) In accordance with the standards and criteria developed pursuant to Section 40-10-17, the operator shall design,* locate, construct, operate, maintain, enlarge, modify, and remove or abandon [in accordance with the standards and criteria developed pursuant to Section 40-10-17] all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes *that are* used either temporarily or permanently

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as dams or embankments.

[(f) Establish] *(8) The operator shall establish* on regraded areas and all other lands affected, a diverse and permanent vegetative cover *that is:*

(a) capable of self-regeneration and plant succession; and

(b) at least equal in extent of cover to the natural vegetation of the area.

[(g) Protect] *(9) The operator shall protect* offsite areas from damages which may result from the mining operations.

[(h) Eliminate] *(10) The operator shall eliminate* fire hazards and [otherwise eliminate] *other* conditions which constitute a hazard to health and safety of the public.

[(i) Minimize] *(11) The operator shall minimize* the disturbances of the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quantity of water in surface and groundwater systems both during and after coal mining operations and during reclamation by:

[(i)] *(a)* avoiding acid or other toxic mine drainage by such measures as, but not limited to:

[(A)] *(i)* preventing or removing water from contact with toxic-producing deposits;

[(B)] *(ii)* treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; or

[(C)] *(iii)* casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters[.];

[(ii)] *(b)* conducting surface coal mining operations [so as] to prevent, to the extent possible

using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area [(1) but in no event shall these contributions be in excess of requirements set by applicable state or federal law],]; and

(c) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

[(j) With respect to other surface impacts not specified in Subsection (2), including]

(12) (a) The standards established under Section 40-10-17 for surface coal mining operations shall apply to:

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(i) the construction of new roads or the improvement or use of existing roads to gain access to the site of [these] activities conducted on the surface of lands in connection with an underground coal mine and for haulage[.];

(ii) repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited [structure] structures, facilities, or other property or materials on the surface, resulting from or incident to [such] activities[, operate in accordance with the standards established under Section 40-10-17 for such effects which result from surface coal mining operations; but the] conducted on the surface of land in connection with an underground coal mine; and

(iii) other surface impacts of underground coal mining not specified in this section.

(b) The division shall make the modification in the requirements imposed by [this subsection] Subsection (12)(a) as are necessary to accommodate the distinct difference between surface and underground coal mining methods.

[(k)] (13) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of these resources where practicable.

[(l) Locate] (14) The operator shall locate openings for all new drift mines working acid producing or iron producing coal seams in a manner as to prevent a gravity discharge of water from the mine.

[(3) In order to protect the stability of the land, the board shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if, after proper notice and hearing there is a finding of imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.]

[(4)] (15) (a) Underground coal mining operations conducted after October 24, 1992, shall be subject to the [following requirement:] requirements specified in Subsections (b) and (c).

(b) (i) The permittee shall promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and related structures or noncommercial building due to underground coal mining operations.

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(ii) Repair of damage will include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and related structures or noncommercial building.

(iii) Compensation shall be provided to the owner of the damaged occupied residential dwelling and related structures or noncommercial building and will be in the full amount of the diminution in value resulting from the subsidence.

(iv) Compensation may be accomplished by the purchase, prior to mining, of a

noncancellable premium prepaid insurance policy.

(c) Subject to the provisions of Section 40-10-29, the permittee shall promptly replace any state-appropriated water in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

[(b)] (d) Nothing in *this* Subsection [(4)] (15) shall be construed to prohibit or interrupt underground coal mining operations.

[(c)] (e) Within one year after the date of enactment of *this* Subsection [(4)] 15, the board shall adopt final rules to implement *this* Subsection [(4)] (15).

[(5) The provisions of this chapter relating to permits, sureties, bonds, inspections, and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with those modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining methods.]

Section 2. Section 40-10-18.1 is enacted to read:

40-10-18.1. Suspension of underground mining upon finding of immediate danger to inhabitants at surface.

In order to protect the stability of the land, the board shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if, after proper notice and hearing, there is a finding of imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

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Section 3. Section 40-10-18.2 is enacted to read:

40-10-18.2. Applicability of other chapter provisions.

The provisions of this chapter relating to permits, sureties, bonds, inspections, and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with those modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining methods.

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S.B. 142 Enrolled

COAL RECLAMATION AMENDMENTS

1997 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Dmitrich

AN ACT RELATING TO MINING; AMENDING THE DEFINITION OF ADJUDICATIVE PROCEEDING; AMENDING PROVISIONS REGARDING PROTESTS OF APPLICATIONS TO MINE COAL; CLARIFYING AN OPERATOR'S RIGHTS TO CONTEST A NOTICE OF VIOLATION AND PENALTY; AND MAKING TECHNICAL AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

40-10-3, as last amended by Chapter 219, Laws of Utah 1994

40-10-11 (Subsection (5) is Repealed 09/30/04), as last amended by Chapter 219, Laws of Utah 1994

40-10-13, as last amended by Chapter 219, Laws of Utah 1994

40-10-17 (Subsect (2)(t)(ii) Repeal 09/30/04), as last amended by Chapter 219, Laws of Utah 1994

40-10-20, as last amended by Chapter 219, Laws of Utah 1994

40-10-25, as last amended by Chapter 219, Laws of Utah 1994

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **40-10-3** is amended to read:

40-10-3. Definitions.

For the purposes of this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding [that determines] *determining* the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including [all] actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license[.]; *or*

(b) judicial review of a division or board action or proceeding specified in Subsection (a).

(2) "Alluvial valley floors" mean the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash,

together with talus, other mass movement accumulation and windblown deposits.

(3) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; but water impoundments may be permitted where the division determines that they are in compliance with Subsection 40-10-17(2)(h).

(4) "Board" means the Board of Oil, Gas, and Mining and the board shall not be defined as an employee of the division.

(5) "Division" means the Division of Oil, Gas, and Mining.

(6) "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(7) "Employee" means those individuals in the employ of the division and excludes the board.

(8) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under Section 40-10-25 or 40-10-25.1.

(9) "Operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location.

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(10) "Other minerals" mean clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid or solution form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.

(11) "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the division.

(12) "Permit applicant" or "applicant" means a person applying for a permit.

(13) "Permitting agency" means the division.

(14) "Permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by Section 40-10-15 and shall be readily identifiable by appropriate markers on the site.

(15) "Permittee" means a person holding a permit.

(16) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

(17) "Prime farmland" means the same as prescribed by the United States Department of Agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics.

(18) "Reclamation plan" means a plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to Section 40-10-10.

(19) "Surface coal mining and reclamation operations" mean surface mining operations and

all activities necessary and incident to the reclamation of these operations after the effective date of this chapter.

(20) "Surface coal mining operations" mean:

(a) Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of Section 40-10-18, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly

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or indirectly affect interstate commerce. These activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site; but these activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16-2/3% of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to Section 40-10-8.

(b) The areas upon which the activities occur or where the activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities.

(21) "Unanticipated event or condition" means an event or condition encountered in a mining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(22) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

Section 2. Section 40-10-11 (Subsection (5) is Repealed 09/30/04) is amended to read:

40-10-11 (Subsection (5) is Repealed 09/30/04). Division action on permit application -- Requirements for approval -- Schedule of applicant's mining law violation -- Restoration of prime farmland.

(1) Upon the basis of a complete mining application and reclamation plan or a revision or

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renewal of same, as required by this chapter, including public notification and an opportunity for a public hearing as required by Section 40-10-13, the division shall grant, require modification of, or deny the application for a permit in a reasonable time set by the division and notify the applicant in writing. The applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the division shall notify the local governmental officials in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(2) No permit or revision application shall be approved unless the application affirmatively demonstrates and the division finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval and made available to the applicant, that:

(a) the permit application is accurate and complete and that all the requirements of this chapter have been complied with;

(b) the applicant has demonstrated that reclamation as required by this chapter can be accomplished under the reclamation plan contained in the permit application;

(c) the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in Subsection 40-10-10(2)(c) has been made by the division and the proposed operation of same has been designed to prevent material damage to hydrologic balance outside the permit area;

(d) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to Section 40-10-24 or is not within an area under study for such designation in an administrative proceeding commenced pursuant to Subsection 40-10-24(2) (unless in the area as to which an administrative proceeding has commenced pursuant to Section 40-10-24, the operator demonstrates that prior to January 1, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

(e) the proposed surface coal mining operation would:

(i) not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated

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or naturally subirrigated, but excluding undeveloped range lands which are not significant to farming on the alluvial valley floors and those lands as to which the division finds that if the farming that will be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production; or

(ii) not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors in Subsection (2)(e)(i), but this Subsection (2)(e) shall not affect those surface coal mining operations which in the year preceding August 3, 1977, produced coal in commercial quantities and were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the division to conduct surface coal mining operations within these alluvial valley floors;

(f) in cases where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the division:

(i) the written consent of the surface owner to the extraction of coal by surface mining methods; provided, however, that nothing in this section shall be construed as increasing or diminishing any property rights by the State of Utah or by any other landowner;

(ii) a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

(iii) if the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with state law.

(3) The applicant shall file with his permit application a schedule listing any and all notices of violations of *the Surface Mining Control and Reclamation Act of 1977 or its implementing regulations*, this chapter, any state or federal program or law approved under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. Sec. 1201 et seq., and any law, rule, or regulation of the United States, State of Utah, or any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year period prior to the date of application. The schedule shall

also indicate the final resolution of any notice of violation. Where the schedule or other information available to the division indicates that any surface coal mining operation owned or controlled by the

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applicant is currently in violation of this chapter or other laws *and regulations* referred to in this Subsection (3), the permit shall not be issued until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the division, department, or agency which has jurisdiction over the violation; and no permit shall be issued to an applicant after a finding by the board after opportunity for hearing that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter.

(4) (a) In addition to finding the application in compliance with Subsection (2), if the area proposed to be mined contains prime farmland pursuant to division rules, the division shall grant a permit to mine on prime farmland if the division finds in writing that the operator has the technological capability to restore the mined area within a reasonable time to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards specified in division rules. Except for compliance with Subsection (2), the requirements of this subsection shall apply to all permits issued after August 3, 1977.

(b) Nothing in Subsection (4) shall apply to any permit issued prior to August 3, 1977, or to any revisions or renewals of it, or to any existing surface mining operations for which a permit was issued prior to August 3, 1977.

(5) (a) After October [14] 24, 1992, the prohibition of Subsection (3) does not apply to a permit application, if the violation resulted from an unanticipated event or condition that occurred at a surface coal mining operation on lands eligible for remaining under a permit held by the person making the application.

(b) As used in this subsection, the term "violation" has the same meaning as the term has under Subsection (3).

(c) Subsection (5) is repealed September 30, 2004.

Section 3. Section 40-10-13 is amended to read:

40-10-13. Advertisement of ownership, location, and boundaries -- Notice to interested

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agencies or bodies -- Objections -- Conference.

(1) At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit pursuant to the provisions of this chapter, the applicant shall submit to the division a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission the advertisement shall be placed by the applicant in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The division shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities of water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies may submit written comments within a reasonable

period established by the division on the mining applications with respect to the effects of the proposed operation on the environment which are within their area of responsibility. These comments shall immediately be transmitted to the applicant by the division and shall be made available to the public at the same locations as are the mining applications.

(2) (a) Any person having an interest which is or may be adversely affected or the officer or head of any federal, state, or local governmental agency or authority shall have the right to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operations with the division within 30 days after the last publication of the notice. These objections shall immediately be transmitted to the applicant by the division and shall be made available to the public.

(b) If written objections are filed and a conference requested, the division shall then hold a conference within a reasonable time of the receipt of the objections or request. The conference shall be informal and shall be conducted in accordance with the procedures described in *this* Subsection (b), irrespective of the requirements of Section 63-46b-5, Administrative Procedures Act. The conference [may] *shall* be held in the locality of the coal mining and reclamation operation if requested within a reasonable time after written objections or the request for an informal conference

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are received by the division. The date, time, and location of the conference shall be advertised by the division in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. The division may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. This record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond. In the event all parties requesting the conference stipulate agreement prior to the requested conference and withdraw their request, the conference need not be held.

Section 4. Section 40-10-17 (Subsect (2)(t)(ii) Repeal 09/30/04) is amended to read:

40-10-17 (Subsect (2)(t)(ii) Repeal 09/30/04). Performance standards for all coal mining and reclamation operations -- Additional standards for steep-slope surface coal mining -- Variances.

(1) Any permit issued pursuant to this chapter to conduct surface coal mining shall require that the surface coal mining operations will meet all applicable performance standards of this chapter, and such other requirements as the division shall promulgate.

(2) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operations as a minimum to:

(a) Conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future through surface coal mining can be minimized.

(b) Restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as the use or uses does not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicant's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of federal, state, or local law.

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(c) Except as provided in Subsection (3) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials) and grade in order to restore the approximate original contour of the land with highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter); but in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region. In surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall, after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that the overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this chapter.

(d) Stabilize and protect all surface areas, including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution.

(e) Remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil, and when the topsoil is

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not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation; except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner the other strata which is best able to support vegetation.

(f) Restore the topsoil or the best available subsoil which is best able to support vegetation.

(g) For all prime farmlands, as identified in the rules, to be mined and reclaimed, specifications for soil removal, storage, replacement, and reconstruction, the operator shall, as a minimum, be required to:

(i) segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity, and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(ii) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or

a combination of these horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil, and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(iii) replace and regrade the root zone material described in Subsection (2)(g)(ii) above with proper compaction and uniform depth over the regraded spoil material; and

(iv) redistribute and grade in a uniform manner the surface soil horizon described in Subsection (2)(g)(i).

(h) Create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately

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demonstrated that:

(i) the size of the impoundment is adequate for its intended purposes;

(ii) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

(iii) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream;

(iv) the level of water will be reasonably stable;

(v) final grading will provide adequate safety and access for proposed water users; and

(vi) these water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(i) Conducting any augering operation associated with surface mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the division determines that the resulting impoundment of water in the auger holes may create a hazard to the environment or the public health or safety; but the permitting authority may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts.

(j) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and groundwater systems both during and after surface coal mining operations and during reclamation by:

(i) avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(A) preventing or removing water from contact with toxic-producing deposits;

(B) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; and

(C) casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or

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other toxic drainage from entering ground and surface waters;

(ii) (A) conducting surface coal mining operations so as to prevent, to the extent possible

using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law; and

(B) constructing any siltation structures pursuant to *this* Subsection (2)(j)(ii) prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;

(iii) cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized and depositing the silt and debris at a site and in a manner approved by the division;

(iv) restoring recharge capacity of the mined area to approximate premining conditions;

(v) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(vi) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the state; and

(vii) such other actions as the division may prescribe.

(k) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other waste in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers, including the use of incombustible and impervious materials, if necessary, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this chapter.

(l) Refrain from surface coal mining within 500 feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners; but the division shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer to an active underground mine if:

(i) the nature, timing, and sequencing of the approximate coincidence of specific surface

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mine activities with specific underground mine activities are jointly approved by the departments, divisions, and agencies concerned with surface mine reclamation and the health and safety of underground miners; and

(ii) the operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(m) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to the division's rules, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments.

(n) Insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion.

(o) Insure that explosives are used only in accordance with existing state and federal law and the rules adopted by the board, which shall include provisions to:

(i) provide adequate advance written notice to local governments and residents who might be affected by the use of the explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within 1/2 mile of the proposed blasting site and by providing daily notice to resident/occupiers in these areas prior to any blasting;

(ii) maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(iii) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

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(iv) require that all blasting operations be conducted by trained and competent persons, and to implement this requirement, the division shall promulgate rules requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or the use of explosives in surface and coal mining operations; and

(v) provide that upon the request of a resident or owner of a man-made dwelling or structure within 1/2 mile of any portion of the permitted area, the applicant or permittee shall conduct a preblasting survey of the structures and submit the survey to the division and a copy to the resident or owner making the request, the area of which survey shall be decided by the division and shall include such provisions as promulgated.

(p) Insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations; but where the applicant proposes to combine surface mining operations with underground mining operations to assure maximum practical recovery of the mineral resources, the division may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground operations prior to reclamation:

(i) if the division finds in writing that:

(A) the applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(B) the proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;

(C) the applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued by the appropriate authority;

(D) the areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;

(E) no substantial adverse environmental damage, either onsite or offsite, will result from the delay in completion of reclamation as required by this chapter; and

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(F) provisions for the offsite storage of spoil will comply with Subsection (2)(v);

(ii) if the board has adopted specific rules to govern the granting of the variances in accordance with the provisions of *this* Subsection (2)(p) and has imposed such additional requirements as deemed necessary;

(iii) if variances granted under *this* Subsection (2)(p) are to be reviewed by the division not more than three years from the date of issuance of the permit; and

(iv) if liability under the bond filed by the applicant with the division pursuant to Section 40-10-15 shall be for the duration of the underground mining operations and until the requirements of Subsection 40-10-17(2) and Section 40-10-16 have been fully complied with.

(q) Insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property.

(r) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to the channel so as to seriously alter the normal flow of water.

(s) Establish on the regraded areas and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan.

(t) (i) Assume the responsibility for successful revegetation, as required by Subsection (2)(s), for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with Subsection (2)(s), except in those areas or regions of the state where the annual average precipitation is 26 inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work; but when the division approves a long-term intensive agricultural postmining land use, the applicable five or ten-year period of responsibility for revegetation shall commence at the date of initial planting for this long-term intensive, agricultural postmining land use, except when the division issues a written finding approving a long-term,

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intensive, agricultural postmining land use, as part of the mining and reclamation plan, the division may grant exception to the provisions of Subsection (2)(s); and

(ii) on lands eligible for remining, assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in areas of the state where the average annual precipitation is 26 inches or less, assume the responsibility for successful revegetation for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.

(u) Protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area.

(v) Place all excess spoil material resulting from coal surface mining and reclamation activities in a manner that:

(i) spoil is transported and placed in a controlled manner in position for concurrent compaction and in a way to assure mass stability and to prevent mass movement;

(ii) the areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(iii) appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(iv) the disposal area does not contain springs, natural water courses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in a manner that filtration of the water into the spoil pile will be prevented;

(v) if placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the division, the spoil could be placed in compliance with all the

requirements of this chapter and shall be placed, where possible, upon or above a natural terrace, bench, or berm, if this placement provides additional stability and prevents mass movement;

(vi) where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement, is constructed;

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(vii) the final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(viii) design of the spoil disposal area is certified by a qualified professional engineer, and to implement this requirement, the division shall promulgate rules regarding the certification of engineers in the area of spoil disposal design; and

(ix) all other provisions of this chapter are met.

(w) Meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this chapter, taking into consideration the physical, climatological, and other characteristics of the site.

(x) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of these resources where practicable.

(y) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for the distance as the division shall determine shall be retained in place as a barrier to slides and erosion.

(3) (a) Where an applicant meets the requirements of Subsections (3)(b) and (c), a permit without regard to the requirement to restore to approximate original contour provided in Subsections (2)(c), (4)(b), and (4)(c) may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in *this* Subsection (3)) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

(b) In cases where an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed for the postmining use of the affected land, the division may grant a permit for a surface mining operation of the nature described in Subsection (3)(a) pursuant to procedures and criteria set forth in the rules, including:

(i) the applicant's presentation of specific plans for the proposed postmining land use which meet criteria concerning the type of use proposed;

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(ii) the applicant's demonstration that the proposed use would be consistent with adjacent land uses and existing state and local land use plans and programs and with other requirements of this chapter; and

(iii) procedures whereby the division provides the governing body of the unit of general-purpose government in which the land is located and any state or federal agency which the division, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than 60 days to review and comment on the proposed use.

(c) All permits granted under the provisions of *this* Subsection (3) shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the

approved schedule and reclamation plan.

(4) The following performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section; but the provisions of *this* Subsection (4) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area or where an operator is in compliance with provisions of Subsection (3):

(a) Insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut; but spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of Subsection (2)(c) or *this* Subsection (4) shall be permanently stored pursuant to Subsection 40-10-17(2)(v).

(b) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the appropriate original contour, which material will maintain stability following mining and reclamation.

(c) The operator may not disturb land above the top of the highwall unless the division finds that the disturbance will facilitate compliance with the environmental protection standards of this section; but the land disturbed above the highwall shall be limited to that amount necessary to

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facilitate this compliance.

(d) For the purposes of *this* Subsection (4), "steep slope" means any slope above 20 degrees or such lesser slope as may be defined by the division after consideration of soil, climate, and other characteristics of an area.

(5) The board shall promulgate specific rules to govern the granting of variances from the requirement to restore to approximate original contour provided in Subsection (4)(b) pursuant to procedures and criteria set forth in those rules including:

- (a) written request by the surface owner concerning the proposed use;
- (b) approval of the proposed use as an equal or better economic or public use; and
- (c) approval of the proposed use as improving the watershed control in the area and as using only such amount of spoil as is necessary to achieve the planned postmining land use.

(6) Subsection (2)(t)(ii) is repealed September 30, 2004.

Section 5. Section 40-10-20 is amended to read:

40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation.

(1) (a) Any permittee who violates any permit condition or other provision of this chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of a cessation order under Section 40-10-22, the civil penalty shall be assessed.

(b) (i) The penalty may not exceed \$5,000 for each violation.

(ii) Each day of a continuing violation may be deemed a separate violation for purposes of the penalty assessments.

(c) In determining the amount of the penalty, consideration shall be given to:

- (i) the permittee's history of previous violations at the particular surface coal mining operation;
- (ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;
- (iii) whether the permittee was negligent; and

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(iv) the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.

(2) (a) Within 30 days after the issuance of a notice or order charging that a violation of this chapter has occurred, the division shall inform the permittee of the proposed assessment.

(b) The person charged with the penalty shall then have 30 days to pay the proposed assessment in full, or request an informal conference before the division.

(c) The informal conference held by the division may address either the amount of the proposed assessment or the fact of the violation, or both.

(d) If the permittee who requested the informal conference and participated in the proceedings is not in agreement with the results of the informal conference, the permittee may, within 30 days of receipt of the decision made by the division in the informal conference, request a hearing before the board.

(e) (i) Prior to any review of the proposed assessment or the fact of a violation by the board, and within 30 days of receipt of the decision made by the division in the informal conference, the permittee shall forward to the division the amount of the proposed assessment for placement in an escrow account.

(ii) If the operator fails to forward the amount of the penalty to the division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.

(iii) If, through administrative or judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the division shall within 30 days remit the appropriate amount to the operator with interest accumulated.

(3) (a) A civil penalty assessed by the division shall be final only after the person charged with a violation described under Subsection (1) has been given an opportunity for a public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

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(c) When appropriate, the board shall consolidate the hearings with other proceedings under Section 40-10-22.

(d) Any hearing under this section shall be of record and shall be conducted pursuant to board rules governing the proceedings.

(e) If the person charged with a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the division after the division:

(i) has determined:

(A) that a violation did occur; and

(B) the amount of the penalty which is warranted; and

(ii) has issued an order requiring that the penalty be paid.

(4) Civil penalties owed under this chapter may be recovered in a civil action brought by the attorney general of Utah at the request of the board in any appropriate district court of the state.

(5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order issued under Section 40-10-22 or any

order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

(6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision issued under Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections (1) and (5).

(7) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or any order or decision issued by the board under this chapter shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

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(8) (a) Any operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection 40-10-22(1) within the period permitted for its correction shall be assessed a civil penalty of not less than \$750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection 40-10-22(1) may not end until:

(i) the entry of a final order by the board, in the case of any review proceedings initiated by the operator in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements; or

(ii) the entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation.

Section 6. Section 40-10-25 is amended to read:

40-10-25. Abandoned mine reclamation program -- Expenditure priorities -- Eligible lands and water -- Requirements for use of funds for reclamation or drainage abatement -- Priority sites -- Effect of release of bond or deposit.

(1) Grants made to the state by the secretary of the United States Department of Interior for the administration of an abandoned mine reclamation program and monies of the Abandoned Mine Reclamation Fund created in Section 40-10-25.1 shall be used by the division in accordance with Sections 40-10-25 through 40-10-28.1.

(2) The expenditure of monies shall reflect the following priorities:

(a) the protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(b) the protection of public health, safety, and general welfare from adverse effects of coal mining practices;

(c) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and

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agricultural productivity;

(d) the protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, and recreation and conservation facilities adversely affected by coal mining practices; and

(e) the development of publicly owned land adversely affected by coal mining practices, including land acquired as provided in this section for recreation and historic purposes, conservation, reclamation purposes, and open space benefits.

(3) Except as provided in Section 40-10-28.1, lands and water eligible for reclamation or drainage abatement expenditures under this section are those which were mined for coal or affected by coal mining, wastebanks, coal processing, or other coal mining processes and:

(a) abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws; or

(b) left in an inadequate reclamation status and meet the criteria of Subsection (4)(a) or (b).

(4) Funds made available under this section may be used for reclamation or drainage abatement at a site referred to in Subsection (3) if:

(a) (i) operations occurred on the site during the period beginning August 4, 1977, and ending before January 21, 1981; and

(ii) any funds for reclamation or abatement which are available pursuant to a loan or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or

(b) (i) operations occurred on the site during the period beginning on August 4, 1977, and ending on or before November 5, 1990; and

(ii) the surety of the mining operator became insolvent during that period, and as of November 5, 1990, funds immediately available from proceedings relating to the insolvency, or from any financial guarantee or other source, are not sufficient to provide for adequate reclamation or abatement at the site.

(5) In determining which sites to reclaim, priority shall be given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local

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community.

(6) (a) Surface coal mining operations on lands eligible for remining will not affect their eligibility for reclamation and restoration under this chapter after the release of the bond or deposit for the operation as provided under Section 40-10-16.

(b) When a bond or deposit for a [coal] surface *coal* mining operation on lands eligible for remining is forfeited, funds available under Section 40-10-25 may be used, if the amount of the bond or deposit is not sufficient to provide for adequate reclamation or abatement.

(c) Regardless of the requirements of Subsections (6)(a) and (b), the director of the division may expend monies under Section 40-10-25.1 for any emergency requiring immediate reclamation.

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[Bill Documents][Bills Directory]

Applicant Violator System Office System Advisory Memorandum

SAM # 29 DATE: May 14, 1997



*Copy Lowell, Maryland
Horn, Joe
Reading
File*

Subject: Applicant Violator System Recommendations

File OSM INCOMING

On January 31, 1997, in National Mining Ass'n v. Department of Interior, Nos. 95-5434, etc. (D.C. Cir.) (consolidated), the U.S. Court of Appeals invalidated OSM's 1988 ownership and control regulations, as well as OSM's 1989 permit information and permit rescission rules. The Court held that section 510(c) of SMCRA only allows permit blocking when the applicant owns or controls an operation with outstanding violations. OSM's rules went further in requiring permit blocks when any person who owns or controls the applicant is currently in violation. The decision took effect April 16, 1997.

The Court struck down the three regulations based on a finding that one provision in one of the regulations exceeded the authority of SMCRA. In doing so, it also struck down provisions of the regulations that were consistent with the Court's interpretation of section 510(c), and created a great deal of uncertainty among state regulatory authorities about how to implement the permit-block sanction. To remove this uncertainty, OSM published interim final rules on April 21, 1997, at 62 FR 19449 -19461. Under these regulations, OSM will review AVS information to ensure that recommendations provided to regulatory authorities are consistent with the court's decision.

Effective immediately, OSM will provide States with "DENY" or "CONDITIONAL ISSUE" recommendations only when the applicant, or any surface coal mining operation owned or controlled by the applicant, is in violation. The court's ruling effectively eliminates OSM's ability to permit block an applicant solely on the basis of unabated violations attributed to individuals and entities that own or control the applicant.

When a regulatory authority requests a recommendation from the AVS, OSM will take the following actions:

1. If the system recommendation is "ISSUE", OSM will conduct an accuracy check and make sure that no additional data are available that might change the system recommendation. OSM will then provide its recommendation to the State as in the past. In those cases where additional information becomes available that would change the system recommendation from "ISSUE" to "DENY" or "CONDITIONAL ISSUE", items 2 and 3 below apply.
2. If the system recommendation is "DENY" or "CONDITIONAL ISSUE", OSM will determine if the applicant, or any surface coal mining operation owned or controlled by the applicant, is in violation. If so, OSM will provide the appropriate recommendation to the State based on a review of all available data, as in the past, even if the recommendation is "DENY" or "CONDITIONAL ISSUE". Since the court's decision does not impact these cases, these violators should continue to be permit blocked.
3. If the "DENY" or "CONDITIONAL ISSUE" system recommendation is based solely on a violation attributed to individuals or companies that own or control the applicant, OSM will check the accuracy of system data and the availability of any additional data. If there is no information that would change the recommendation, OSM will respond to the State with "OTHER", which means that the system data are accurate but that, because of the court

SAM # 29
May 14, 1997
page 2

decision, OSM cannot recommend a permit block. The "OTHER" response is new in the AVS and was added specifically for these purposes.

The collection and maintenance of ownership and control information and violation data is not affected by the court's decision. As in the past, all States are to continue entering this information into the AVS to maintain the accuracy and usefulness of the AVS database. OSM will continue to update the AVS with permit, ownership and control, and violation data where it is the permitting authority. Updating interstate organizational family trees with data provided by the States and companies will continue in the same manner as in the past.

The Lexington AVS Office is here to help you in any way possible. Please feel free to contact us at 1-800-643-9748 if you need any assistance or have any questions about this new process.

Signed;



**Lawrence E. Grasch, Chief
AVS Office, Lexington**

Horizon

Resource

Management



Natural Resource Consulting

1206 E. Aztec Ave. Suite C

Gallup, NM 87301

Phone: 505-863-1950

Fax: 505-863-1951

April 18, 1997

File OSM

Lowell Braxton
Associate Director of Mining
UT Division of Oil, Gas & Mining
Department of Natural Resources & Energy
1594 West North Temple, #1210
Box 145801
Salt Lake City, UT 84114-5801

Dear Mr. Braxton,

We are requesting a list of Coal Mining Operators in the State of Utah. Specifically we would like the name and address of the Permit Coordinator for each Coal Operator in the state.

The contact information will be used in conjunction with the enclosed survey. We are in the process of gathering information from the survey that will be presented at OSM's "Computer Applications for Electronic Permitting Interactive Forum," to be held June 30th through July 2nd, 1997. Our goal is to use the survey information to bring guidance to the forum.

Thus, our request is twofold:

- We are requesting that you complete the survey and return it to us at the address listed below.
- Please send us the list of Coal Operator's in your state including the Permit Coordinator's name, if available.

Thank you for your cooperation. Please feel free to contact us at:

Horizon Resource Management
1206 E. Aztec Suite C
Gallup, NM 87301
Phone #: 505-863-1950
Fax #: 505-863-1951
e-mail: rbo9@cia-g.com

Sincerely,

Richard Bonine Jr

Richard Bonine, Jr.
President

Software Information

What is the primary word processing software used at your site?

- WordPerfect 5.0 for DOS
- WordPerfect for Windows Version _____
- Word for DOS Version _____
- Word 6.0 for Windows
- Word 7.0 for Windows
- Other _____

What is the primary spreadsheet software used at your site?

- Lotus for DOS Version _____
- Lotus for Windows Version _____
- Quattro Pro for DOS Version _____
- Quattro Pro for Windows Version _____
- Excel for DOS Version _____
- Excel for Windows Version _____
- Other _____

What is the primary database software used at your site?

- Paradox for DOS Version _____
- Paradox for Windows Version _____
- Access for Windows Version _____
- dBase Version _____
- Foxpro Version _____
- Other _____
- Don't use database software

What is the primary CAD package used at your site?

- Autocad for DOS Version_____
- Autocad for Windows Version_____
- Other_____
- None

What is the primary statistics package used at your site?

- Statgraphics for DOS Version_____
- Statgraphics for Windows Version_____
- Other_____
- None

What is the primary Geographic Information System used at your site?

- ArcView Version_____
- ArcInfo Version_____
- MapInfo Version_____
- Other_____
- None

Do you have a GPS system?

- Trimble
- Sokkia
- Magellen
- Garmin
- Other
- None

What software do you use to generate vegetation data for your annual report?

What software do you use to generate the data for your graded spoil report?

What is your understanding of OSM's Electronic Permitting Initiative?



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

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801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

April 23, 1997

Richard Bonine Jr.
Horizon Resource Management
1206 East Aztec, Suite C
Gallup, New Mexico 87301

RE: Survey and Coal Operator List for Utah

Dear Mr. Bonine:

Enclosed please find the completed electronic permitted survey and copy of the Coal Operators for Utah's Coal Regulatory Program. If you have any questions please call.

Sincerely,

A handwritten signature in cursive script that reads "Joseph C. Helfrich".

Joseph C. Helfrich
Permit Supervisor

tt
Enclosure
cc: Mary Ann Wright
O:\COALOP.LTR

Horizon Resource Management

Facsimile Cover Sheet

04/18/97

To: Lowell Braxton

Mary Ann

From: Richard Bonine, Jr.

Number of pages including cover sheet: 6

If you do not receive all pages please call 505-863-1950

Memo: Attn. Mr. Braxton, The original EPS survey will be forwarded in the mail.

Joe —

Please take care of getting this survey completed + sent back. You probably need to talk w/ Ken, Steve, Randy

to complete.

Thank you.

P.S. P.S. copy in my box after sending back.

MB

done 4/23



April 18, 1997

Lowell Braxton
Associate Director of Mining
UT Division of Oil, Gas & Mining
Department of Natural Resources & Energy
1594 West North Temple, #1210
Box 145801
Salt Lake City, UT 84114-5801

Dear Mr. Braxton,

We are requesting a list of Coal Mining Operators in the State of Utah. Specifically we would like the name and address of the Permit Coordinator for each Coal Operator in the state.

The contact information will be used in conjunction with the enclosed survey. We are in the process of gathering information from the survey that will be presented at OSM's "Computer Applications for Electronic Permitting Interactive Forum," to be held June 30th through July 2nd, 1997. Our goal is to use the survey information to bring guidance to the forum.

Thus, our request is twofold:

- We are requesting that you complete the survey and return it to us at the address listed below.
- Please send us the list of Coal Operator's in your state including the Permit Coordinator's name, if available.

Thank you for your cooperation. Please feel free to contact us at:

Horizon Resource Management
1206 E. Aztec Suite C
Gallup, NM 87301
Phone #: 505-863-1950
Fax #: 505-863-1951
e-mail: rbo9@cia-g.com

Sincerely,


Richard Bonine, Jr.
President

H orizon		1206 E. Aztec Ave. Suite C
R esource		Gallup, NM 87301
M anagement		Phone: 505-863-1950 Fax: 505-863-1951

Natural Resource Consulting

Electronic Permitting Survey

Demographic Information

Organization Utah Division of Oil, Gas & Mining
 Survey Participant's Name Mary Ann Wright
 Position Associate Director of Mining
 Address 1594 West North Temple, Suite 210
 City SLC State UT Postal Code 84114-5801

Hardware Information

What is the primary hardware used at your site for permitting work and annual reports?

- IBM or Compatible
- Macintosh
- Unix

If you answered the previous question as IBM or Compatible, what Operating System are you using?

- DOS Version _____
- Windows 3.1
- Windows 95
- Other _____

Software Information**What is the primary word processing software used at your site?**

- WordPerfect 5.0 for DOS
- WordPerfect for Windows Version 6.0
- Word for DOS Version _____
- Word 6.0 for Windows
- Word 7.0 for Windows
- Other _____

What is the primary spreadsheet software used at your site?

- Lotus for DOS Version _____
- Lotus for Windows Version _____
- Quattro Pro for DOS Version _____
- Quattro Pro for Windows Version 6.0
- Excel for DOS Version _____
- Excel for Windows Version _____
- Other _____

What is the primary database software used at your site?

- Paradox for DOS Version _____
- Paradox for Windows Version _____
- Access for Windows Version _____
- dBase Version _____
- Foxpro Version 5.0
- Other _____
- Don't use database software

What is the primary CAD package used at your site?

- Autocad for DOS Version _____
- Autocad for Windows Version 13
- Other _____
- None

What is the primary statistics package used at your site?

- Statgraphics for DOS Version MOST RECENT
- Statgraphics for Windows Version _____
- Other _____
- None

What is the primary Geographic Information System used at your site?

- ArcView Version 2.1 AND 3.0
- ArcInfo Version _____
- MapInfo Version _____
- Other _____
- None

Do you have a GPS system?

- Trimble
- Sokkla
- Magellen
- Garmin
- Other
- None

What software do you use to generate vegetation data for your annual report?

None

What software do you use to generate the data for your graded spoil report?

None

What is your understanding of OSM's Electronic Permitting Initiative?

TO ACQUIRE COMPUTER GENERATED PERMITS
THAT CAN BE LOADED INTO FEDERAL OR STATE
AGENCY DATA BASES.

