



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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*File*

March 25, 1991

CERTIFIED RETURN RECEIPT REQUESTED  
No. P 540 714 136

Mr. Robert H. Hagen, Director  
Albuquerque Field Office  
Office of Surface Mining  
Reclamation and Enforcement  
Suite 310, Silver Square  
625 Silver Avenue, S.W.  
Albuquerque, New Mexico 87102

Dear Mr. *RH*Hagen:

Re: Ten-Day Letter 91-02-370-002 TV1, Hidden Valley Mine, ACT/015/007, Folder #5, Emery County, Utah

In accordance with the provisions of 30 CFR 842.11(b)(1)(iii)(A), the following constitutes a request for an informal review of OSM's findings dated March 8, 1991, and received by certified mail March 21, 1991, that the Division's response to the above-cited Ten-Day Letter (TDL) was an abuse of discretion of the Utah Program.

The TDL alleged the following violation:

"Failure to make a written determination addressing the required criteria to eliminate highwalls to the maximum extent technically possible." Note: although not specifically referenced in the TDL, the AFO correspondence (2-14-91, p 3) preceding issuance of this TDL indicated the "A" seam highwall was the area of concern. Subsequent correspondence from your office has not indicated differently, and the Division's responses have been oriented towards this portion of the reclaimed site.

As indicated in the Division's March letter, the reclamation of the above-referenced highwall proceeded as follows:

1. The "A" seam portal highwall was eliminated by construction culminating in phase-one bond release in 1988. (Division photo documentation.)
2. High intensity storms in 1988 caused erosion damage to the reclamation at the "A" seam portal area.
3. The system of diversion benches was created to divert overland flow away from the regraded, reseeded fill area. The system is working.

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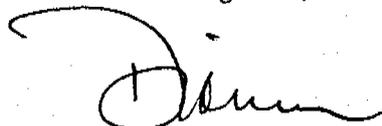
The AFO indicates that there is sufficient material in the pad to eliminate the diversion benches. I am sure this is true. In eliminating the diversion benches, the field configuration would be that of the site at phase-one bond release, and the probability of a second erosive failure of this portion of the reclaimed site would be equally high.

I believe that the Division followed its regulatory responsibility by requiring total elimination of the highwall in the original reclamation effort. When faced with the choice of losing the reclaimed area to erosion, the modification of the plan allowing use of diversion benches represents a sound technical solution to a documented field problem. Any other system of diversion that is constructed above the existing reclamation at the "A" seam portal area, will result in disturbance of previously undisturbed areas. The Division's action was directed at establishing a functional erosion prevention design, and therefore was not arbitrary and capricious.

I believe the present configuration represents the limits of success ("maximum extent technically practical") addressed in the TDL. Please note that this site was inspected by OSM on April 19, 1989, and no problems were cited in conjunction with the "A" seam portal area.

If you believe a review of the Division's photo documentation of the above reclamation history will facilitate the informal review, I will make this available. Thank you for your review of this matter.

Best regards,



Dianne R. Nielson  
Director

vb  
cc: L. Braxton  
P. Grubaugh-Littig  
D. Haddock  
J. Helfrich  
MI54/25&26