0044 Mine File Ref.

CalMat of Arizona

The CalMat Companies

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DIVISION OF OIL GAS & MINING PRICE UTAH

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DIVISION OF OIL GAS & MINING

KK 6/8/92

cc Wm. Richards
P. Grubaugh-Littig
L. Braxton

June 5, 1992

VIA FEDERAL EXPRESS

RWD

Copy Tom and Bill M.
Cover letter only

Dianne R. Nielson, Director
Division of Oil, Gas and Mining
Department of Natural Resources
State of Utah
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Division Order # DO-92A

Dear Dr. Nielson:

This letter is responsive to the above referenced Division Order dated May 11, 1992. The Order and Findings of Permit Deficiency alleges that the permit for Hidden Valley Coal Company, ACT/015/007, does not completely and accurately reflect stream buffer zone information.

On May 2, 1980, under the interim regulatory program, Hidden Valley Coal Company received a variance from stream buffer zone requirements to construct a road near Ivie Creek, with two stipulations. We complied with the stipulations at that time and constructed the road. Copies of pertinent correspondence is attached. Now, in 1992, the road no longer exists.

We believe that it is inappropriate now, after twelve (12) years have elapsed, to change the permit for the site to reflect work that was completed under a variance that pre-dates the existing permit. We also believe that it is inappropriate for the Division to order a permittee to change its permit. The Division reviewed and approved the subject variance in 1980 and reviewed and approved the 1986 reclamation plan. The time for making decisions upon the substantive issues, and we do not believe this is substantive, relating to the proposed reclamation has long since passed. The reclamation work is complete, revegetation is monitored monthly and maintenance of the site in its reclaimed condition continues. We have made every reasonable effort to assure successful revegetation of the site, with the consent and approval of the Division and its inspectors.

1801 E. UNIVERSITY DRIVE / PHOENIX, AZ 85034 / P.O. BOX 52012, ZIP 85072 / (602) 254-8465

As you know, we question the jurisdiction of the Division over this site because no coal was ever mined and the company did not intend to develop an uneconomical enterprise. We respectfully decline to submit the permit change you have ordered and will seek an appeal to the Mining Board on this matter.

HIDDEN VALLEY COAL COMPANY

Lee Edmonson

Lee Edmonson
Manager, Planning & Regulatory Affairs

LE/cn
Enclosures
cc: Denise Dragoo, Esq.
Peter Stirba, Esq.

92-063