



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

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November 17, 1993

TO: Pamela Grubaugh-Littig, Permit Supervisor
FROM: Susan M. White, Senior Reclamation Biologist *SMW*
RE: N93-35-8-1, Hidden Valley Coal Company, Hidden Valley Mine, ACT/015/007, Folder #2, Emery County, Utah

SYNOPSIS

By letter dated November 12, 1993 from Lee Edmonson, Cal Mat, the permittee, proposed a settlement to Notice of Violation N93-35-8-1. The letter contained several misleading concepts that I will address in this memo. Perhaps, a settlement agreement could be proposed such that the ten-year bond clock issue would not be addressed until the time of bond release application.

ANALYSIS

One settlement proposal offered by the permittee was for the Division to allow revegetation activities classified as husbandry practices as an "experimental practice". This proposal could be acceptable, however experimental practices as defined by R645-302-210 require an application detailing the practice, the environmental benefits, monitoring, etc., etc., and the Division and the Office (OSM) must concur. I envision this as a long process and one which will not correct the immediate problem at hand, N93-35-8-1. However, the operator may pursue this avenue.

The permittee alleges that the "site as a whole is well on its way to meeting the Division's revegetation standards". In October of this year I took some cursory vegetation data and my data on the reference area cover value is far different than that claimed by the operator. This difference will be investigated further this coming summer.

The permittee's settlement proposal argues that surface areas of roads are exempt from any revegetation standards. While this statement is true, no roads as defined by UMC 700.5 Definitions, exist within the disturbed area. The declared postmining land use for the mine site is wildlife habitat and livestock grazing (page 7 of the PAP). The permit defines the road to be used "for livestock trailing" (page 24-c) and "to aid in achievement of the postmining land uses" (page 7-b). The

permit also states that the terraces of the roadway will enhance forage production (page 24) and "the roughened condition of the road and barriers across the road prevent vehicular access" (page 24-a). These statements and details as to how the road is to be revegetated demonstrate that the operator had no intention of leaving the road as defined in UMC 700.5 which is exempt from revegetation.

I believe that the one concession that the Division could make in a settlement agreement would be to not assess the 10-year bond clock issue until a bond release application has been received. This means that if and when OSM approves the Division's proposed Husbandry Practices, even though the seeding is done now (prior to approval) the Division will evaluate the practice under the current Husbandry Guidelines at the time of bond release application. But all the conditions of the approved Husbandry Practices must be met such as acreage reseeded and time periods in which work is allowed.

Finally, I strongly recommend that an extension not be granted if requested by the Permittee. Now is the ideal time to seed at the Hidden Valley Mine. Further delays into the season may bring frozen ground or snow making seeding difficult or impossible and eventually delaying the seeding another year.

RECOMMENDATION

The Division should offer to evaluate the 10-year bond clock issue at the time of bond release application. Since the Division cannot guarantee how the proposed Husbandry rule will be in its final form (i.e. approved by OSM) this is a risk to the Operator. The Division has compromised since technically any seeding done now should restart the bond clock..

cc: Joe Helfrich