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DIVISION OF OIL
GAS & MINING
SALT LAKE CITY, UTAH

May 12, 1994

**VIA FACSIMILE**
**(801)359-3940**

James W. Carter
Director
Utah Division of Oil, Gas & Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

Re: **Hidden Valley Coal Company, Permit No. ACT/015/007**
**Erosion Control Plan**

Dear Director Carter:

Hidden Valley Coal Company ("HVCC") hereby notifies the Utah Division of Oil, Gas & Mining (the "Division") of its intent to implement the erosion control portion of its plan for abatement of NOV N91-26-8-2, dated December 8, 1992. By letter dated December 15, 1992, the Division approved this plan and instructed HVCC to notify the Division prior to undertaking abatement measures. The erosion control portion of the plan is set forth at pages 2 through 6. HVCC agrees to proceed with this abatement as soon as practicable after approval, once materials are received and environmental conditions are acceptable. Conditions necessary for work to proceed are: (1) no snow cover; (2) the ground has thawed to allow digging to proceed; and (3) the moisture content of the soil is such that fill slope materials are workable without forming clods. HVCC believes that environmental conditions at the site are now acceptable and proposes to commence work under the approved plan during the week of May 16, 1994. The work will involve a two-person labor crew supervised by JBR Consultants Group, Inc. It is anticipated that the work will take approximately one month to complete.

HVCC is implementing the erosion control portion of the abatement plan, although the Division has vacated NOV N91-26-8-2. As you are aware, the Division vacated this NOV in response to the December 1, 1993 ruling of the Utah Court of Appeals in *Hidden Valley Coal Company v. Utah Board of Oil, Gas & Mining,* Case No. 930073-CA. Pending the court's ruling in that matter, HVCC had obtained a stay from the Court of Appeals dated March 8, 1993, preventing the Division from "issuing, enforcing, implementing or acting upon in any way any notice of violation or cessation order

requiring HVCC to effect or implement its abatement plan for NOV N91-26-8-2." Although the NOV has been vacated and the abatement plan is no longer required, HVCC is proceeding in accordance with the plan as a good faith effort to control erosion on the site to the extent possible.

We appreciate your cooperation in this matter.

Sincerely,

Lee Edmonson

Lee Edmonson
Manager
Planning & Regulatory Affairs

LE/cn
Enclosures

cc: Karla Knoop
Denise A. Dragoo, Esq.
William Malencik