

0013

### Document Information Form

Mine Number: C/015/007

File Name: Internal

To: DOGM

From:

Person N/A

Company N/A

Date Sent: May 11, 1994

Explanation:

Temporary - Draft

cc:

File in: C/015, 007, Internal

Refer to:

- Confidential
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Date \_\_\_\_\_ For additional information

# TEMPORARY-DRAFT

May 11, 1994

Thomas E. Ehmett, Acting Director  
Office of Surface Mining  
Reclamation and Enforcement  
505 Marquette N.W., Suite 1200  
Albuquerque, New Mexico 87102

Re: TDN 94-020-170-001, Hidden Valley Coal Company, ACT/015/007, Folder #5, Emery County, Utah

Dear Mr. Ehmett:

Please consider this a preliminary response to the aforementioned TDN. The matter of erosion on the outslope has been a concern to the Division. On November 1991, the Division issued a violation on erosion on the reclaimed road outslope. The permittee submitted an abatement plan which the Division approved to control runoff and erosion.

Shortly thereafter, the Division notified the permittee that performing work associated with the NOV, which also included other violations, would restart the bond clock. As a result thereof, the permittee challenged administratively and through Utah Courts the facts of the violations. All violations were upheld until the appellate court ruled in favor of the permittee. As a result of this decision, the Division vacated the violations.

On May 10, 1994, I had a meeting with the permittee. At the meeting, the following conclusions were reached.

1. Permittee agreed to implement the approved runoff and erosion control plan referred to above.
2. That the following on-site work would commence before May 20, 1994, to wit:
  - a. Reshape erosion channels and site preparations.
  - b. Order material from vendors.

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3. Install material as soon as materials protective and runoff buffer blankets are received from the vendor. Because of delivery time frames cannot be accomplished before May 20, 1994.

In light of the Utah court action, the cooperative position of the permittee to correct the problem, I recommend you consider action taken within the 10 day period, noted in one and two above as our intent to take appropriate action. In my opinion, it is not reasonable for the Division to issue a violation since the magnitude of the erosion has not materially changed since we issued the violation in 1991, and moreover, in light of the appellate courts decision.

Very truly yours,

James W. Carter  
Director

jbe  
cc: B. Malencik  
H:HIDDENVA.LET