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

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July 20, 1995

TO: James W. Carter, Director

THRU: Lowell P. Braxton, Associate Director, Mining *LAB*

THRU: Joseph C. Helfrich, Permit Supervisor *JCH*

FROM: William J. Malencik, Reclamation Specialist *WJM*

RE: Hidden Valley Coal Mine, ACT/015/007, Folder #2, Emery County, Utah

This memorandum has reference to our meeting of June 29, 1995, regarding the issuance of a Notice of Violation ("NOV"). I was provided a 10-day window to ascertain if the necessary on-the-ground work could be accomplished without the necessity of taking formal compliance action.

Since our meeting of the 29th, I have not received any information from Mr. Edmonson. On the other hand, I have received a letter from his attorney, Denise Dragoo. From the tone of her letter, it appears that getting the environmental work done without formal compliance action will not be possible.

I telephoned Mr. Edmonson to fully understand his position. He is in Los Angeles. Talked to Carol, his secretary, and she said she would try to get Mr. Edmonson to phone me. In his absence tried to contact Mrs. Dragoo, but she is out until July 25th.

Again, reviewing the pros and cons in my own mind, the following key points come to the forefront:

Cons

1. I executed an NOV on the same issue in 1991 and the Utah Court of Appeals in substance did not uphold the District Court decision, even though the District Court upheld the administrative decision.



Page 2  
James W. Carter  
ACT/015/007  
July 20, 1995

2. I do not have any new evidence. Further in my opinion, the vegetation on the area of concern is no different than in 1991.
3. Executed stipulation between DOGM and Hidden Valley Coal Company provides there shall be no further appeals as to the facts of violation concerning vegetation as related to the NOV I executed in 1991, i.e., N91-26-8-2.
4. The Division stipulated that it would not appeal the Appellate Court decision. Issuing an NOV at this time is contrary to the stipulation signed by the Assistant Attorney General for the Division.

**Pros**

1. Mr. Edmonson did perform the required field work on two other issues that were involved in the N91-26-8-2 violation when compliance action was discussed as a final course of action.
2. Pending permit transfer to Consolidated Coal Company.

jbe  
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