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CERTIFIED MAIL - RETURN RECEIPT REQ.



*J. L. Connel*

March 29, 1978

**Consolidation Coal Company**  
Western Region  
2 Inverness Drive East  
Englewood, Colorado 80110  
303-770-1600

Mr. Cleon B. Feight, Director  
Division of Oil, Gas, and Mining  
1588 West North Temple  
Salt Lake City, Utah 84116

RE: Pre-existing, non-conforming facilities at the Emery Deep Mine --  
Application for a Hearing

Dear Mr. Feight:

On March 20, 1978 our office received a letter from you in regard to pre-existing, non-conforming structures and facilities under the initial federal surface mining regulations. In your letter you noted that section 710.11(d) of the regulations requires the regulatory authority (i.e., Utah Division of Oil, Gas, and Mining) to find in writing that it is physically impossible for the operator to bring such structures or facilities into compliance with the federal performance standards by May 3, 1978. Furthermore, the Division was notified by the Office of Surface Mining on March 10, 1978 that this finding must be a finding of fact by the Board of Oil, Gas and Mining. Therefore, you have requested that operators file an application for a special Board hearing on April 19 or 20, 1978.

We believe that the tipple facility at our Emery Deep Mine located near Emery, Utah, is a pre-existing, non-conforming facility which will be physically impossible to bring into compliance by May 3, 1978. Therefore, in response to your request, please consider this letter to be an application for said hearing so that we may demonstrate to you that it is indeed physically impossible to bring this facility into compliance by the May 3 deadline.

We understand that we must prepare a written and oral presentation for the hearing; and, that the presentation should include the following:

- A statement indicating the steps to be taken to reconstruct the facility to attain compliance with applicable performance standards,
- A schedule for reconstruction, and
- An estimated date of completion.



Please advise us as soon as possible where and when the hearing will take place.

Very truly yours,

A handwritten signature in cursive script that reads "J. M. Kaufman". The signature is written in black ink and is positioned above the typed name and title.

J. M. Kaufman  
Supervisor - Environmental  
Quality Control

JMK:bf

cc: Ron Daniels