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United States Department of the Interior Pfo

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
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ALBUQUERQUE, NEW MEXICO 87102

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In Reply Refer To:

June 9, 1989

RECEIVED
JUN 12 1989

Mr. Lowell P. Braxton, Administrator
Mineral Resources Development and Reclamation Program
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

DIVISION OF
OIL, GAS & MINING

Re: Ten-Day Notice 89-02-107-3(1-3)

Dear Mr. Braxton:

The following is a modification to the written finding dated June 1, 1989, regarding the above-referenced Ten-Day notice (TDN).

On June 7, 1989, Susan Linner of the Division of Oil, Gas and Mining (DOGM) contacted Albuquerque Field Office (AFO) Supervisory Reclamation Specialist Stephen Rathbun to discuss the decisions rendered in the June 1, 1989, written finding for TDN 89-02-107-3. During that conversation, reference was made to the roads addressed in violation 3 of the TDN as existing prior to the issuance of the Emery Deep Mine permit. Subsequently, AFO conducted an in-depth review of the Mining and Reclamation Plan. It revealed that the roads did, in fact, exist at the time of permit issuance. Further, the 1985 Technical Analysis indicates that the roads were found to be in compliance with the performance standards.

Based on this new information, WFO will withdraw violation 3 of TDN 89-02-107-3. As-built certifications are not required for existing structures for which a written finding has been rendered indicating the structures met all applicable performance standards.

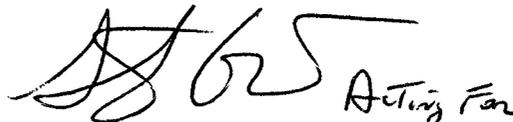
While the violation in question is being withdrawn, further discussion may be necessary on DOGM's position concerning permit defects vs performance standard violations. AFO's position regarding as-built certifications is clearly outlined in the June 1, 1989, written finding for TDN 89-02-107-3. If needed, this matter could be a topic of discussion during the upcoming quarterly meeting on June 14, 1989.

Mr. Lowell P. Braxton

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If you have any questions concerning this matter, please contact Stephen Rathbun or me at (505) 766-1486.

Sincerely,

A handwritten signature in black ink, appearing to be "RH Hagen". To the right of the signature, the words "Acting For" are written in a cursive script.

Robert H. Hagen, Director
Albuquerque Field Office