

Mine file  
LFB  
Pam  
DRA  
PFO



# United States Department of the Interior

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
SUITE 310  
625 SILVER AVENUE, S.W.  
ALBUQUERQUE, NEW MEXICO 87102



In Reply Refer To:

July 26, 1991

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
P 965 799 199

RECEIVED

JUL 29 1991

DIVISION OF  
OIL GAS & MINING

Mr. Lowell P. Braxton  
Associate Director, Mining  
Division of Oil, Gas and Mining  
3 Triad Center, Suite 350  
355 West North Temple  
Salt Lake City, UT 84180-1203

Re: Ten-Day Notice (TDN) 91-02-370-004 TV1, Des-Bee-Dove Mine, ACT/015/017

Dear Mr. Braxton:

The Albuquerque Field Office (AFO) received your response to the above-referenced TDN on July 18, 1991. AFO has reviewed the Division of Oil, Gas and Mining's (DOGM) response and has found it to be inappropriate.

The TDN was issued for a violation of the performance standards found in DOGM's regulations at R614-301-752.210. This regulation is under the Road Drainage regulations and reads, "Control or prevent erosion, siltation and the air pollution attendant to erosion by vegetating or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices; \* \* \*." The part of the road cited did not have any sediment control measures; e.g., vegetation, tackifier, terraces, etc., implemented on the slopes. Erosion features measured as deep as 48 inches. Because the operator had not taken any actions to control or prevent the erosion, a violation of the performance standard exists. DOGM is required by regulation and the new DOGM Inspection and Enforcement policy to issue an enforcement action if a violation of the performance standards is observed during or as a result of an inspection. The measures proposed by DOGM to address the violation may be adequate as abatement measures incorporated in a Notice of Violation (NOV). Without the issuance of an NOV, however, AFO finds the response to be inappropriate. For clarification, approximately half of the road does not drain to a sedimentation pond. The location cited in the TDN is part of the road that does not drain to a sedimentation pond.

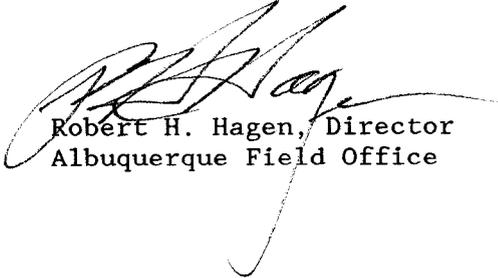
If you disagree with this finding, you may request an informal review in accordance with 30 CFR 842.11(b)(1)(iii)(A). The request may be filed at this office or with the Deputy Director, Office of Surface Mining

Mr. Lowell P. Braxton

2

Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC, 20240. Your request must be received within 5 days of receipt of this letter. A Federal inspection may be conducted after the 5-day appeal time has elapsed unless an informal review is requested.

Sincerely,



Robert H. Hagen, Director  
Albuquerque Field Office