6026

orig file
ACT/015/019

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

cc L Braxton
T Mitchell
DKN
R Daniels

JUL 10 1991

RECEIVED
JUL 15 1991
DIVISION OF
OIL GAS & MINING

Dianne R. Nielson, Ph.D.
Director, Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Dear Dr. Nielson:

I am writing in response to your June 19, 1991, letter in which you protest the decision rendered by my Deputy Director, Operations and Technical Services (OTS) with respect to your request for informal review of ten-day notice numbers 91-02-246-001 and 002 (Deer Creek and Genwal Mines), and 91-02-116-003 (Cottonwood/Wilberg Mine). All three ten-day notices concerned the issue of whether certain roads used for haulage or access in connection with these mines were required to be permitted under the Utah program.

The arguments provided in your letter to support your protest are essentially the same as those set forth in your initial ten-day notice response to the Albuquerque Field Office and in your request to the Deputy Director, OTS for informal review. I assure you that the Office of Surface Mining Reclamation and Enforcement does not take lightly any determination that a State has abused its discretion under the State program since under the Surface Mining Control and Reclamation Act, State regulatory authorities bear the primary burden for enforcing the law. Indeed, the informal review process was designed to allow States to express their views and involve agency policymakers in such determinations prior to site-specific Federal intervention.

Notwithstanding this safeguard, the rules governing the informal review process require that upon receipt of a request for informal review, the Deputy Director must either affirm, modify, or reverse the determination of a Field Office Director based on the factual situation established in the record before him. While you may disagree with the outcome of the decision rendered in the instant cases, I am confident that your position in this matter was given full and careful consideration by the Deputy Director in rendering his decision.

Sincerely,

Harry Snyder
Director

cc: Robert H. Hagen
Director, Albuquerque Field Office