



PENALTY FOR PRIVATE USE, \$300

1661 8 2 53 J
 DIVISION
 JAN 19 1989

Print Sender's name, address, and ZIP Code in the space below.
RETURN TO **OFFICIAL BUSINESS**

SENDER'S NAME, ADDRESS, AND ZIP CODE
 NATURAL RESOURCES
 DIVISION OF STATE
RECIPIENT'S NAME, ADDRESS, AND ZIP CODE
 OIL, GAS, & MINING
 3 TRIAD CENTER, SUITE 350
 SALT LAKE CITY, UTAH 84180-1203

SENDER INSTRUCTIONS
 Print your name, address and ZIP Code in the space below.
 Complete items 1, 2, 3, and 4 on the reverse.
 Attach to front of article if space permits, otherwise affix to back of article.
 Endorse article "Return Receipt Requested" adjacent to number.

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE. CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

* U.S.G.P.O. 1989-234-555

PS Form 3800, June 1985

* U.S.G.P.O. 1989-234-555

RECEIPT FOR CERTIFIED MAIL
 P 540 714 124
 NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL

Postmark or Date	Return Receipt showing to whom	Return Receipt showing to whom and Date Delivered	Restricted Delivery Fee	Special Delivery Fee	Certified Fee	Postage	P.O. State and ZIP Code	Signature and ZIP Code	Article Addressed to
1989 FEB 16	135				1.00	29	ALBUQUERQUE NM 87102	625 SILVER AVE SW STE 310 SILVER SQ ALBUQUERQUE NM 87102	ROBERT H HAGEN DIR AFC-OSM-R&E 310 SILVER SQ 625 SILVER AVE SW ALBUQUERQUE NM 87102

TOTAL Postage and Fee \$ 264

610/510/ACT 1-772-20-16 NDL BA MDDC

PS Form 3811, Apr. 1989

* U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT

1. **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse of the envelope. Failure to do this will prevent the return being returned to you. The return receipt fee will be added to the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check boxes for additional service(s) requested.

2. Restricted Delivery (Extra charge)

3. Article Addressed to:
 ROBERT H HAGEN DIR
 ALBUQUERQUE FIELD OFFICE
 OFFICE OF SURFACE MINING R & E
 STE 310 SILVER SQ
 625 SILVER AVE SW
 ALBUQUERQUE NM 87102

4. Article Number
 P 540 714 124

Type of Service:
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

5. Signature - Addressee
 X

6. Signature - Agent
Edward M. Mueland

7. Date of Delivery
 2/16/89

8. Addressee's Address (ONLY if requested and fee paid)
 Always obtain signature of addressee or agent. **DATE DELIVERED.**



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

File

Norman H. Bangertter
Governor
Dee C. Hansen
Executive Director
Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 27, 1991

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 714 138

Mr. Robert H. Hagen, Director
Albuquerque Field Office
Office of Surface Mining
Reclamation and Enforcement
Suite 310, Silver Square
625 Silver Avenue, S.W.
Albuquerque, New Mexico 87102

Dear Mr. Hagen:

Re: TDN X91-02-116-3 TV1, PacifiCorp Electric Operations, Cottonwood/Wilberg Mine, ACT/015/019, Folder #5, Emery County, Utah

This letter is in response to the above-referenced Ten-Day Notice, certified copy received March 18, 1991.

Number 1 of 1 reads: "Failure to first obtain a permit from the Division (DOGM) prior to engaging in and carrying out any coal mining and reclamation operations." Location: Cottonwood/Wilberg haul road from present permit boundary (former guard shack location) approximately 13 miles south to the receiving scale of the Hunter Prep. Plant. Regulation citation: R614-300-112.400.

Division Response:

I have enclosed pages 11.1 and 11.2 from the approved MRP. The MRP, as approved by OSM, clearly differentiates haul roads from state road 57 (11.1, paragraph 4).

On page 11.2, OSM made a finding that the applicant was in compliance with the requirements of the regulations at the time of approval. Subsequent to permit approval, this permit has undergone reviews at the mid-permit term and renewal. OSM did not object to the permit renewal.

Subsequent to the renewal, DOGM's Board modified by emergency rule making the definition of "road" and "public road" (2-25-91). You were notified of this emergency rulemaking by letter from the Division Director dated March 1, 1991.

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Mr. Robert H. Hagen
March 27, 1991

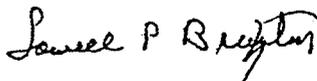
The Division feels the issuance of the TDN after promulgation of the emergency rulemaking denies the Division reasonable time in which to manage and enforce its program. The regulation cited in the TDN reads:

"All persons who engage in and carry out any coal mining and reclamation will first obtain a permit from the Division. The applicant will provide all information in an administratively complete application for review by the Division in accordance with R614-300 and the state program."

The adequacy of the original permit and OSM's findings of compliance with respect to roads have not been a subject of enforcement heretofore. The Division has established and implemented a policy and action plan for reviewing roads under the new rule. In the past, OSM has provided sufficient time for DOGM to implement new rules. Failure of OSM to provide such time in this instance is an arbitrary and capricious action on OSM's part.

The TDN should be withdrawn pending Utah's review under the emergency and finally approved formal rule.

Sincerely,



Lowell P. Braxton
Associate Director, Mining

Enclosures
cc: P. Grubaugh-Littig
D. Haddock
J. Helfrich
MI54/24&25

XI. ROADS

11.1 Description of Applicant's Proposal

Access roads will be used in conjunction with the operation of facilities at the main Wilberg portal area in Grimes Wash, the Cottonwood fan portal site, and the waste rock disposal site. The roads at the main Wilberg portal area already exist and are in use; roads at the Cottonwood fan portal site and waste rock disposal site are proposed.

There are five facility roads at the main Wilberg portal area, identified as follows:

- a. Haul road
- b. Truck turn-around
- c. Service road
- d. Portal road
- e. Fan access road

All of the roads, except the fan access road are asphalt surfaced. Adequate drainage is provided using roadside ditches and culverts.

The haul road is a continuation of the plant access highway, State Road No. 57. It is 28 feet wide with a grade of 8 to 12 percent. The haul road ends at the truck turn-around loop, also 28 feet wide. The truck turn-around loop has a gradient ranging from level to a 12 percent transition with the haul road. The haul road and truck turn-around are used for transportation of coal and hence are defined as Class I roads.

The service road starts at the junction of the haul road and truck turn-around and terminates at the upper storage area. The service road is 20 feet wide with a grade of 12 percent. Turn-outs are provided from the service road to the plant silo area and the lower and upper parking lot in addition to the upper storage area. The service road is planned for greater than six months use and hence is defined as a Class II road.

The portal road starts at the upper storage area and follows the mine track extension at a six percent grade to the elevation of the mine portals. The fan access road is a dirt road at variable width providing access from the mine portal road to the mine ventilation fan. The road was constructed along an existing alignment and is essentially level. The portal road and fan access road are defined as Class II roads.

The proposed access road at the Cottonwood fan portal site will utilize an existing road that originally served the Old Johnson Mine. This road will be cleared of rubble and extended approximately 600 feet to provide access to the fan portal and equipment. The existing road has an 85-foot section with a grade of 17 percent; this will be regraded to provide a maximum grade for the new road of eight percent. The proposed access road is defined as a Class II road. The applicant does not state how this road will be surfaced. Adequate drainage is provided through roadside ditches and culverts.

Small roads will be constructed from the main haul road to provide access to the waste rock disposal site. These roads will have a maximum length of approximately 500 feet and will be essentially level.

11.2 Evaluation of Compliance of Proposal

UMC 817.150 Roads: Class I: General

The applicant has complied with the requirements of this section.

UMC 817.151 Roads: Class I: Location

The applicant has complied with the requirements of this section.

UMC 817.152 Roads: Class I: Design and Construction

Large sections of the haul roads of the main Wilberg portal area have grades that exceed ten percent. These grades have been approved by DOGM in a construction variance granted to the applicant. The applicant is, thus, in compliance with part (a).

The applicant meets all other requirements of this section.

UMC 817.153 Roads: Class I: Drainage

The applicant is in compliance with this section.

UMC 817.154 Roads: Class I: Drainage

The asphalt surfacing of the haul road and truck turn-around meet all requirements of this section.

UMC 817.155 Roads: Class I: Maintenance

The applicant has complied with the requirements of this section.

UMC 817.156 Roads: Class I: Restoration

The applicant meets the requirements of this section.

UMC 817.160 Roads: Class II: General

The applicant has complied with the requirements of this section.

UMC 817.161 Roads: Class II: Location

The applicant has complied with the requirements of this section.