



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MININGNorman H. Bangarter
GovernorDee C. Hansen
Executive DirectorDianne R. Nielson, Ph.D.
Division Director355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

February 13, 1989

CERTIFIED RETURN RECEIPT REQUESTED
(P 879 596 389)

Mr. Robert Hagen, Director
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 X88-02-107-11, No. 1 of 3, Co-Op Mining Company, Bear
Canyon Mine, ACT/015/025, Folder 5, Emery County, Utah

Pursuant to your letter of February 2, 1989, the following is a request for an appeal of your office's findings that the Division of Oil, Gas and Mining failed to take appropriate action to cause the alleged violation to be corrected.

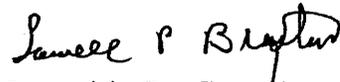
In reviewing the appeal, please be advised that the Division's position is this is a maintenance issue. The Division directed the operator to "increase the berm height along the undisturbed drainage" (the berm having been degraded by normal activities at this site). It is not unusual for berms to require routine maintenance, and in your discussions with Ken May and Dianne Nielson, you have agreed that proper identification of maintenance issues by the Division is an appropriate means of directing an operator to rectify a compliance problem, provided the problem may be categorized as maintenance. I believe that by directing the berm height to be increased, the Division has acted both within its programmatic directive, and within the agreement established between yourself and Division management.

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R. Hagen
ACT/015/025
TDN X88-02-107-11, #1 of 3
February 13, 1989

Secondly, in the appeal, please consider that the discussions of small area exemptions and treatment facilities in your letter of February 2, 1989 may represent an expansion of the scope of the Ten-Day-Notice beyond its original language. The original language dealt with failure to pass "disturbed area drainage through a sedimentation pond". We believe that the permit adequately identifies the need to divert disturbed area drainage to a sedimentation pond, and that the berm is the mechanism in the permit that appropriately routed the water to that facility. Proper maintenance of the berm assures compliance in this case and the Division appropriately directed the operator to increase the berm height as a maintenance action.

Should additional information be required, please advise.

Sincerely,



Lowell P. Braxton
Administrator
Mineral Resource Development
and Reclamation Program

djh
cc: G. Hansen, Co-Op
D. R. Nielson
K. May
J. Whitehead
P. F. O.
AT18/18-19

09m

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RECEIPT FOR CERTIFIED MAIL

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(See Reverse)

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Office of Surface Mining	
Street and No. Suite 310 Silver St	
625 Silver Ave. S.W.	
P.O., State and ZIP Code Albuquerque NM 87102	
Postage	\$
Certified Fee	
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Return Receipt showing to whom and Date Delivered	
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TOTAL Postage and Fees	\$
Postmark of Date	

PS Form 3800, June 1985

TDN X88-02-107-11 #1075

PS Form 3811, Dec. 1980

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3. ARTICLE ADDRESSED TO: **Mr. Robert Hagen, Dir**
Office of Surface Mining
Suite 310, Silver St
625 Silver Avenue S.W.
Albuquerque NM 87102

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ACT/BS/BS/TD/NDN X88-02-107-11 #1075