



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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801-538-5340

April 7, 1992

CERTIFIED RETURN RECEIPT REQUESTED  
No. 540 713 887

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: Ten-Day Notice X92-02-352-002-TV1, Bear Canyon Mine,  
ACT/015/025, Emery County, Utah

This letter responds to the above-referenced Ten-Day Notice (TDN), the certified copy of which was received at the Division's offices on, March 30, 1992.

Number 1 of 1 reads: "Failure to demonstrate in writing to the regulatory authority that all reasonably spoil will be insufficient to completely backfill the reaffected highwall. All highwalls at Bear Canyon." Sections of the state law, regulations or permit conditions believed to have been violated: R645-301-553.520

Division's Response: The regulation cited and the language used in writing the TDN both infer that OSM feels the operation at Bear Canyon qualifies as a pre-SMCRA affected site. This is not true, nor is this position supported in the permit. A Division Order (90-A) was issued to Co-Op in 1990 that included #14, which reads (in part): "The permittee must submit specific mass balance calculations and cross sectional representations to demonstrate that there will be adequate volumes of fill and soil material for the projected reclamation and revegetation plans."

Language in the MRP reads: "Plates 3-2 show existing highwalls (Plates 2-4 are recovered during reclamation). Appendix 3-L includes cut and fill calculations for the mine site including removal of the highwalls."

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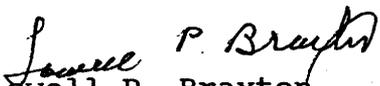
Mr. Robert H. Hagen  
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This TDN should be vacated for the following reasons:

1. Incorrect citation assuming site is pre-SMCRA.
2. Failure by OSM to review the MRP and files adequately enough to determine that the requisite highwall elimination demonstrations are in the plan.

Incidentally, I believe writing this TDN could have been avoided had OSM's inspector followed our agreed upon procedure of reviewing the permit and files in the Division's Salt Lake City office, discussing possible problems with the permit supervisor responsible for the operation, and closing out the inspection with a discussion of perceived problems with appropriate DOGM staff. In our April 1, 1992 quarterly oversight meeting, you indicated your agreement that these procedures are still viable. I believe, if followed, unnecessary allegations of state program violations can be reduced, if not precluded.

Sincerely,

  
Lowell P. Braxton  
Associate Director, Mining

vb  
cc: D. Nielson  
tdnbcyn