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→ Mine file # 015/022 #3 ←
→ scores to #3



United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
SUITE 310

625 SILVER AVENUE, S.W.
ALBUQUERQUE, NEW MEXICO 87102

APR 19 1989



In Reply Refer To:

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED (No. P 965 798 890)

Mr. Lowell P. Braxton, Administrator
Mineral Resource Development and Reclamation Program
Division of Oil, Gas and Mining
Department of Natural Resources
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

RECEIVED
APR 24 1989

DIVISION OF
OIL, GAS & MINING

Re: Ten-Day Notice 89-02-107-1

Dear Mr. Braxton:

The following is a written finding, in accordance with 30 CFR 842.11, regarding the Division of Oil, Gas and Mining's (DOGM) response to the above-referenced Ten-Day Notice (TDN).

On March 7, 1989, the Albuquerque Field Office (AFO) conducted a random sample inspection (RSI) of the Genwal Coal Company Crandall Canyon Mine. The inspection resulted in the issuance of the TDN referenced above for alleged violations of the Utah regulations. DOGM received the TDN via certified mail on March 9, 1989, therefore setting the response due date at March 20, 1989. AFO did not receive the response by the due date; therefore, Rade Orell contacted you to confirm the status of the response. You indicated it was mailed on March 16, 1989; AFO received the written response on March 22, 1989.

The TDN was issued for failure to pass disturbed area drainage through a sedimentation pond or treatment facility before leaving the permit area in accordance with the requirements of UMC 817.42. The TDN describes three areas on the lower bench, the Forest Service Parking Lot/Snow Storage, the outslope of the haul road from the truck turnaround to the loading area, and the three topsoil stockpiles located along the U.S. Forest Service road/haul road as the disturbed areas from which drainage does not pass through a sedimentation pond before leaving the permit area.

The DOGM response confirms the fact that drainage from the disturbed areas described by the TDN does not pass through a sedimentation pond before leaving the permit area.

Mr. Lowell P. Braxton

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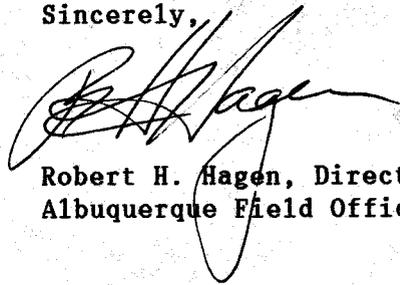
Your response indicates that the operator is to submit revisions to the permit text and maps to support a small area exemption. We find this TDN response to be appropriate because the operator has taken measures to abate the violation. However, we remain concerned about the process used to grant approval in the field for the small area exemption.

The issuance of a field amendment authorizing a certain practice may be an acceptable means by which permit defects are corrected provided it is accomplished in accordance with the approved State Program. In this situation, the approval should have been based upon a plan that is first submitted to the Division by the operator, reviewed by the Division and finally approved by the Division. Instead, the State inspector using the Coal MRP Amendment/Field Decision Form directs the operator to submit appropriate revisions to texts and maps. The form indicates DOGM has issued approval for the SAE's before the person, in this case Genwall Coal Company, conducting the underground coal mining activities demonstrates that all applicable State and Federal effluent limitation standards will be met or that the quality of receiving waters will not be degraded by the drainage using applicable State and Federal water quality standards in accordance with UMC 817.42(a)(3). The Interior Board of Surface Mining Appeals ruled that an on-site approval of a variance could not be used when the authorization requires a procedure involving specific review and evaluation of proposals (cite: 2 IBSMA 180, Case No. IBSMA 80-43).

Further discussions are needed regarding the procedures followed by DOGM with field amendments. This matter, therefore, will be discussed as a programmatic concern during our next quarterly meeting. At that time, we would like to review other cases where the field amendment process has been used.

If you wish to discuss this matter further, please contact Steve Rathbun or me at (505) 766-1486.

Sincerely,



Robert H. Hagen, Director
Albuquerque Field Office