

 GENWAL COAL COMPANY

July 10, 1991

Mr. Gary Fritz
United States Department of Interior
Office of Surface Mining
Albuquerque Field Office
625 Silver Avenue, S.W.
Suite 310, Silver Square
Albuquerque, New Mexico 87102

RE: Notice of Violation 91-02-244-3 ("NOV")

Dear Mr. Fritz:

Pursuant to 30 C.F.R. § 845.17, Genwal Coal Company ("Genwal") hereby submits information concerning the above-entitled NOV to be considered by the federal Office of Surface Mining ("OSM") in determining the facts surrounding the violation and the amount of the penalty. Genwal is concerned that the facts upon which OSM has based its NOV at the Crandall Canyon Mine (the "Mine") are incorrect. As set forth in the June 7, 1991 letter from the Manti-LaSal National Forest:

1. The Crandall Canyon Mine Forest Development Road 50248 is a public road which continues past the Mine site and terminates at a trail head/parking facility providing public access to national forest lands;
2. Genwal's use of the Crandall Canyon Road is permitted by the Manti-LaSal National Forest under a Forest Service road use permit which authorizes non-exclusive commercial use of the Forest Service road; and
3. The road use permit currently requires Genwal to meet certain reconstruction, reclamation and bonding requirements.

The Forest Service further indicates in its June 7, 1991 letter that: "The Forest Service reserves its authority to manage/control Forest Service development roads as provided by statute and will not consent to their being incorporated into the Mine permit area." The Manti-LaSal's position is further articulated in a letter to me dated March 29, 1991 regarding the public road status of Forest Development Road No. 50248. We understand

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that you have also received a letter dated June 10, 1991 from the Forest Service requesting that OSM withdraw the NOV relative to Forest Service Development Road No. 50248 due to lack of jurisdiction; a copy of this correspondence is enclosed.

It is clear from the above-mentioned correspondence from the Manti-LaSal National Forest that the Crandall Canyon Road is a Forest Service development road used for public access and is not a mine haul road. Therefore, the operator respectfully requests the withdrawal of the NOV.

In the event that the NOV is not withdrawn, Genwal requests OSM to consider the good faith compliance efforts of the operator in this matter. As you are aware, at the time the NOV was issued, Genwal was preparing to conduct road widening and paving activities as required and approved by the U.S. Forest Service road use permit. The NOV brought this activity to a halt and Genwal immediately pursued a modification of the June 26, 1991 NOV to allow Genwal to proceed with these activities. OSM issued a modification of the NOV and on Monday, July 1, 1991, Genwal initiated construction work to abate the contributions of sediment allegedly entering Crandall and Huntington Creeks from the road as required by the U.S. Forest Service. The operator believes these activities should result in the maximum award of good faith points in any proposed penalty assessment.

We appreciate your consideration of these issues.

Sincerely,

Allen P. Childs /gmc

Allen P. Childs
Mine Manager/Vice President

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Enclosures