



United States Department of the Interior
 OFFICE OF SURFACE MINING
 RECLAMATION AND ENFORCEMENT
 219 CENTRAL AVENUE, NW
 ALBUQUERQUE, NEW MEXICO 87102

RECEIVED
 JAN 16 1984

DIVISION OF
 OIL, GAS & MINING

January 12, 1984

*Copy to Joe H.
 Then fill in NOV
 fill and mine
 fill. Ron*

Dr. Dianne Nielson, Director
 Division of Oil, Gas and Mining
 4241 State Office Building
 Salt Lake City, UT 84114

RE: Blackhawk Mine, Ten-Day Notice No. 83-2-31-2-1, ACT/043/001

Dear Dr. Nielson:

The above Ten-Day Notice (TDN) was received by the Division of Oil, Gas and Mining (DOGM) on November 10, 1983. DOGM responded to the TDN by sending a letter dated November 22, 1983 to Mr. Clem Cafarelli of Utah Coal and Energy Company notifying him of the problems at the mine and directing him to either close and reclaim the mine or to perform routine maintenance of sediment control and other environmental protection measures and post a bond.

On November 29, 1983, I sent you a letter indicating that the instructions DOGM had given to Mr. Cafarelli were judged to be correct. However, the method in which they were given were incorrect. A Notice of Violation (NOV) should have been issued according to Utah's approved permanent program. In answer to my November 29, 1983 letter, Ron Daniels of your staff sent me a letter dated December 16, 1983 indicating DOGM does not intend to issue a NOV due to Blackhawk not having an interim permit.

Records indicate that Blackhawk was active after the date of implementation of the interim program specified in the Surface Mining Control and Reclamation Act (May 3, 1978). After that date, any person conducting coal mining operations is required to comply with the initial regulatory program. Since this is the case, the mine comes under the purview of the Act and State and Federal interim regulations regardless of whether or not a state permit was issued.

In response to the request to identify our Solicitor, please be advised that Mr. Jerry Thornton, of the Tulsa Regional Solicitor's Office, is providing legal support since the resignation of Mr. Robert Uram.

Page 2

The Office of Surface Mining (OSM) considers this to be an inappropriate response to the subject TDN. OSM will reinspect the site and if the violation still exists, will take necessary enforcement action.

If you have any questions on this matter or wish further information, please contact me.

Sincerely,



Robert H. Hagen, Director
Albuquerque Field Office