



June 3, 2022

JoEllen Turner
Slash M LLC
P.O Box 346
Nucla, CO 81424

Re: Protection of Topsoil Stockpiles

Dear Ms. Turner,

As we had discussed via telephone recently, you have expressed concern regarding protection of the A lift and B lift topsoil stockpiles located to the South west of the irrigated cropland field in the NW ¼ Section 1, Township 46 North, Range 16 West, New Mexico Principle Meridian.

The Division considers topsoil a non-renewable resource. As such, care is needed to assure that stockpiled topsoil remains protected from wind and water erosion, contamination, and other damage.

Rule 4.06.3 Topsoil Storage, requires;

2) Stockpiled materials shall be selectively placed on a stable surface area within the permit area, where they will not be disturbed by mining operations and will be protected from wind and water erosion, unnecessary compaction, and contamination which would lessen the capability of the material to support vegetation when redistributed in accordance with 4.06.4.

(a) Protection measures shall be accomplished by:

- (i) An effective cover of non-noxious, quick-growing annual and perennial plants, seeded or planted during the first appropriate growing season after removal for favorable planting conditions; or
- (ii) Other methods demonstrated to and approved by the Division to provide equal protection.

(b) Stockpiled topsoil and other materials shall not be moved until required for redistribution on a regraded area unless approved by the Division.

Although not expressly required by the regulations, if fencing topsoil stockpiles assures that the stockpiles will remain protected from contamination or trespass, the Division is not opposed to these measures.

If the stockpiles area fenced, Rule 4.15.1(3) Each person who conducts surface coal mining operations shall maintain any necessary fences and utilize proper management practices.



As stated in Section 2.05.4(2)(d) of the New Horizon Permit, C1981008, “any remaining soil stockpiles designated as Morgan stockpiles will be used at the landowners’ discretion.” Permit section 2.05.4(2)(d)) (page 9) confirms that 32,800 cubic yards of topsoil was transferred to the Morgan property, and has been placed on the Morgan property. Table 2.05.4(2)(2)9d)-3 “Topsoil and subsoil balance on Morgan Property” shows a balance of 5,550 cubic yards of Lift A, and 4,070 cubic yards of Lift B soils remaining stockpiles on this property.

I hope this clarifies the Division’s concerns regarding protection of topsoil stockpiles.

Sincerely,



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