

0039

WEST RIDGE RESOURCES, INC.
FAX COVER SHEET
Fax No. 435-564-4002
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DATE: 7/16/02
TO: Vickie Bailey
FROM: Debbie Smith
FAX NUMBER: 801-359-3940
NO. OF PAGES INCLUDING COVER SHEET 10

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-COMMENTS:

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DIVISION OF
OIL, GAS AND MINING



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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May 23, 2002

CERTIFIED MAIL
7099 3400 0016 8895 5408

Gary Grey
West Ridge Resources, Inc
P.O. Box 902
Price, Utah 84501

Re: Findings of Fact, Conclusions of Law and Order and Finalized Assessment for NOV02-49-1-1, C/007/041, West Ridge Resources, Inc. Compliance Folder

Gary
Dear: Mr. Grey,

On May 1, 2002 an Informal Hearing and Assessment Conference was held to review the fact of violation and proposed assessment for state violation NOV 02-49-1-1, West Ridge Mine, West Ridge Resource, Inc.

Attending were:

Assessment Conference Officer: Lowell Braxton

For West Ridge Resources, Inc: Mike Glasson, Gary Grey

For Oil, Gas and Mining's Coal Regulatory Program: Karl Houskeeper
Reclamation Specialist/ Inspector, Pam Grubaugh Littig, Assessment
Officer, Greg Galecki, Reclamation Specialist, / Hydrologist
Mary Ann Wright, Associate Director, Mining.

As a result of a review of all pertinent data and facts, including those presented in the Informal Hearing and Assessment Conference, the following shall constitute the findings of fact, conclusions of law and order and finalized assessment:

7/16/02

*\$150 assessment
pd w/ 7/4/02*

Page 2
West Ridge Mine
May, 23, 2002

Fact of Violation:

Notice of violation NOV 02-49-1-1, (the NOV) was written February 19, 2002 for "Failure to maintain and /or construct diversions in accordance with the approved designs contained approved MRP (mining reclamation plan).

Provisions of act, regulations, or permit violated:

R645-301-752 et. seq. R645-301-752.100 and R645-301-752.201. R645-301-742.312 et. seq. R645-301-742.312.1. UCA 40-10-17 et. seq. 40-10-17 et. seq. 40-10-17 (2)(d) and 40-10-17(2) (j) (ii) (B)."

Portion of operation to which notice applies:

Disturbed ditches DD-1, DD-2 DD-3 DD-4 and DD-9 and DD-12 which exhibits expected flow velocities of 5fps or greater from a 10 year - 24 hour event. (See MRP, Appendix 7-4: page 10, table 13 pages 35 and Figure 4).

Remedial action required (including any interlm steps):

DD-1, DD-2, DD-3, DD-4 and DD-9 and DD -12 need to be concert lined with a minimum 4" of concrete as indicated of Figure 4 appendix 7 -4 of the approved MRP page 10 indicates RipRap or concrete will be used and refers. Plate 7-2 needs to be updated indicating that the prescribed ditches are lined. DD-12 reference should be moved from Figure 3 to Figure

Abatement Time:

No later than 5:00 PM, March 21, 2002 (Abatement times were subsequently modified).

The Informal Conference:

Reclamation Specialist Karl Houskeeper presented a chronology of events that began in January, 1999, and ended April 30, 2002. The chronology referenced a Division Order (DO 00A), issued in 2000, that discusses among other things, design and construction of disturbed area ditches to carry the runoff from a 10 year/ 24 hour storm event. Further, the permit carries a commitment that ditches that have an expected flow velocity of 5 fps or greater be lined with rip-rap or concrete. The Division Order had not been complied with as of the date of the Informal Conference. However, in October, 2001 the division made a finding relative to

Page 3
West Ridge Mine
May 23, 2002

DO 00A, based on PE certified "as built drawings" provided by the operator in partial satisfaction of DO 00A, that all ditches having flows greater than 5 fps were concrete lined. On February 15 and 19, 2002, an inspection conducted by Mr Houskeeper determined certain ditches were not lined or rip-rapped.

The NOV was issued on Feb. 19, 2002, and a 30-day abatement period prescribed. On Mar. 19, 2002 the Operator requested an abatement extension to April 19, 2002 which the Division granted. On April 19, 2002 the NOV having not been abated, an abatement extension to April 29, 2002 was granted by the Division. At the time of the May 1, 2002 informal conference, the NOV remained unabated.

A brief discussion was held at the conference regarding the appropriate design storm event for ditches. The operator stated an opinion that the 10 year/6 hour design storm event was acceptable for disturbed area diversions (ditches), while the division inspector (an engineer) and the Division's Reclamation Hydrologist both asserted that the 10 year /6 hour event applied to diversions that direct flows away from disturbed areas, rather than across them. The subject NOV deals with flows across disturbed areas.

Material presented to the conference officer substantiated that the sediment pond to which the ditches report has been designed to receive a 10 year /24 hour storm event. Both parties agreed to continue the design storm discussion at the conclusion of the informal conference.

Mike Glasson stated that West Ridge Resources felt issuing an NOV on the same subject as that covered in DO 00A placed the operator in a position of double jeopardy. He again reiterated West Ridge's position on the design storm event for ditches. The conference officer noted that the Certified "as built" drawings submitted to the Division in 2001 for certain ditches showed concrete linings that did not comport with what was found in the field on the February 15 and 19 inspection.

The conference officer also noted that a ruling on the fact of the violation and the penalty would not be finalized until the NOV had been terminated.

Findings:

1. The NOV was issued on the basis of an inspection.
2. The request for an informal conference on the fact of the violation was timely.
3. Disturbed area ditches must be constructed to comport with sizing and design requirements of the Utah Coal Regulatory Program and the Permittee's Mining and Reclamation Plan.
4. The NOV had not been abated at the time of the informal conference.
5. The NOV was terminated by Karl Housekeeper, May 20, 2002.

Page4
West Ridge Mine
May 23, 2002

Order:

Notice of violation NOV 02-49-1-1 was appropriately issued.

Remarks:

While not a subject of the informal conference, the Conference Officer notes the protracted time line associated with DO OOA, and encourages the operator to expedite compliance with this Division Order.

Assessment Conference:

The operator stated that the amount of the proposed penalty was of less concern than the fact of NOV issuance. A request for vacation of the NOV was made based on the redundancy between the NOV and D0 00A. No plea for penalty reduction was made.

Findings:

Notice of violation NOV 02-49-1-1 was appropriately issued, and the proposed assessment was made in an appropriate and timely manner.

Finalized Assessment:

Points	Proposed	Final
History Points	0	0
Seriousness		
Damage	0	0
Hindrance	7	7
Negligence	8	8
Good Faith	0	0

The NOV was not abated at the conference

Total points 15 Finalized assessment \$150

Handwritten signature and notes:
OK to pay
compliance
division
JES

Page 5
West Ridge Mine
May 23, 2002

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, mail c/o Vickie Southwick at the address listed above.

Sincerely,



Lowell P. Braxton
Assessment Conference Officer

VS

cc: Mary Ann Wright
Karl Houskeeper

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