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STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

ACT/015/017 #8 Jelle
Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

September 18, 1986

CERTIFIED RETURN RECEIPT REQUESTED
P 001 720 857

Mr. Dee w. Jense
Utah Power and Light Company
P O Box 899
Salt Lake City, Utah 84110

Dear Mr. Jense:

Re: Finalized Assessment for State Violation No. N86-10-2-1
ACT/015/017, folder #8, Emery County Utah

The civil penalty for the above referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts which were not available on the date of the proposed assessment, due to the length of the abatement period.

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 have escrowed the assessed civil penalty with the Division within a maximum of 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 and mail % Jan Brown at the address listed above.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Barbara W. Roberts".

Barbara W. Roberts
Assessment Conference Officer

re

cc: Donna Griffin, OSM Albuquerque Field Office
0450Q

WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE UP&L Des-Bee-Dove NOV # N86-10-2-1
 PERMIT # ACT/015/017 VIOLATION 1 OF 1
 Assessment Date 9-10-86 Assessment Officer Barbara W. Roberts

Nature of violation: Failure to construct and maintain Class I haul road in order to minimize erosion and siltation and prevent to extent possible contribution of suspended solids to runoff outside permit area

Date of termination: August 15, 1986

| | <u>Proposed Assessment</u> | <u>Final Assessment</u> |
|-------------------------------|--------------------------------|-----------------------------|
| (1) History/Prev. Vio. | <u>13</u> | <u>13</u> |
| (2) Seriousness | | |
| (a) Probability of Occurrence | <u>20</u> | <u>1</u> |
| Extent of Damage | <u>8</u> | <u>8</u> |
| (b) Hindrance to Enforcement | <u> </u> | <u> </u> |
| (3) Negligence | <u> </u> | <u> </u> |
| (4) Good Faith | <u> </u> | <u>20</u> |
| TOTAL | <u>41</u> | <u>2</u> |
| | TOTAL ASSESSED FINE | <u>\$ 0</u> |

3. Narrative:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

The area which is the subject of this violation has been the focus of ongoing discussions between the operator and several members of the Division of Oil, Gas and Mining over the course of the past 2-3 years. This apparently is a very difficult area to maintain despite the operator's efforts to do so. The character of the site, steep slope, mancos shale, is such that attempts to revegetate the site repeatedly result in failure. The presence of rills and gullies is a naturally occurring reality of mancos shale and artificial stabilization of this soil type is a contradiction in terms.

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UP&L Des-Bee-Dove
September 10, 1986

To this end and with the knowledge that this area posed a problem, the operator and the Division staff entered into an agreement whereby the operator would monitor the area for erosion on a May, July and September schedule for 1985 and 1986. The operator had complied with this approved schedule. The Division had, by its approval of the monitoring schedule acknowledged the operator's efforts in addressing the haul road erosion issue. In addition, the Division was apparently satisfied that monitoring was the only appropriate plan of action for this site.

Therefore, as a result of the existence of and compliance with an approved plan to address the erosion issue, the Division's action in taking enforcement action was untimely. Violation N86-10-2-1 is therefore vacated in so far as it cites the operator for failure to construct and maintain the Class I haul road in order to minimize erosion.

The remaining portion of N86-10-2-1 cites the operator for failure to prevent, to the extent possible, contributions of suspended solids to runoff outside the permit area. In this case, the event that the rules were designed to prevent is water pollution. The probability of occurrence is therefore reduced to "none" or zero points. This is based upon the proximity to a receiving channel.

In addition, the rapidity with which the operator placed the temporary sediment control measures was immediate. Under the circumstance of the monitoring and ongoing discussions with the Division, the full 20 points of good faith is subtracted from the accumulated points. No penalty will be assessed in conjunction with the remaining 2 points.

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