

Document Information Form

Mine Number: CI 015 / 017

File Name: Internal

To: DOGM

From:

Person N/A

Company UNITED STATES DEPARTMENT OF THE INTERIOR

Date Sent: N/A

Explanation:

NOTICE FOR ORDER TEMPORARILY ENJOINING RESPONDENT FROM ENFORCEMENT ACTION.

cc:

File in: CI 015, 017, Internal

- Refer to:
- Confidential
 - Shelf
 - Expandable

Date _____ For additional information

BEFORE THE HEARINGS DIVISION
OFFICE OF HEARINGS & APPEALS
UNITED STATES DEPARTMENT OF THE INTERIOR
4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

PACIFICORP,	)	Docket No.DV 94-7-R
)	
Applicant,	)	MOTION FOR
	)	ORDER TEMPORARILY
vs.	)	ENJOINING RESPONDENT FROM
	)	ENFORCEMENT ACTION
OFFICE OF SURFACE MINING)	
RECLAMATION & ENFORCEMENT,	)	NOTICE OF VIOLATION 93-020-
	)	190-05 AND CESSATION ORDER
Respondent.	)	94-020-190-01
)	
	)	Des-Bee-Dove Mine, Emery County,
	)	Utah
_____)	

PacifiCorp, by and through its counsel, Stoel Rives Boley Jones & Grey, respectfully moves the Office of Hearings and Appeals to enjoin Respondent from any and all enforcement action against Applicant or its officers and employees, regarding Notice of Violation No. 93-020-190-05 and Cessation Order 94-020-190-01, until a final determination of this proceeding has been reached. On December 16, 1993, Respondent served the Notice of Violation upon Applicant. On January 13, 1994, Respondent served Applicant with a Cessation Order for failure to abate. Applicant filed with the Office of Hearings and Appeals a Petition for Review and for Temporary Relief pursuant to 43 CFR §4.1260 et seq. At the hearing before Administrative Law Judge Rampton on

January 14, 1994, evidence was introduced and Respondent stipulated that the conditions cited in the Notice of Violation would not adversely affect the health or safety of the public or cause significant imminent environmental harm to land, air or water resources.

Administrative Law Judge Rampton issued a written order on January 19, 1994, attached as Exhibit A and incorporated herein by reference, denying Respondent's Motion for Summary Decision and granting Applicant's Motion for Temporary Relief. In so ruling, Judge Rampton held that "there is a substantial likelihood that applicant will prevail on the issues named." At the hearing Judge Rampton ordered that the Cessation Order be held in abeyance.

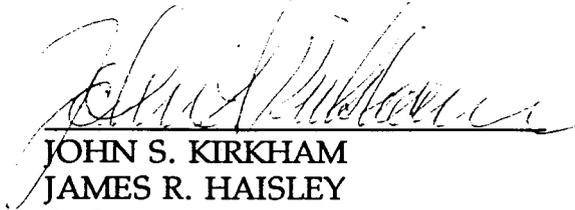
Beginning on January 25, 1994, Respondent knowingly violated and is presently violating Judge Rampton's Order by taking further action in an attempt to enforce the Notice of Violation and the Cessation Order against Applicant. On January 25, 1994, six days after the date of Judge Rampton's Order, Respondent began serving anonymous Notices of Potential Individual Civil Penalty pursuant to Section 518(f) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1268, on Officers of Applicant and the Operator, Energy West Mining Company. The notices are on forms that are not properly filled out and are not signed by an OSMRE representative. As of January 28, 1994, the following individuals had been served with such notices: Robert F. Lanz, Vice President and Treasurer, PacifiCorp; Dee W. Jense, Vice-

President Energy West; and D.R. Baker, President Energy West. A copy of the Notice served on Dee W. Jense is attached as Exhibit B and incorporated herein by reference. Based on information and belief, Applicant has been informed that Respondent is also in the process of attempting to serve: A.M. Gleason, President & Chief Executive Officer PacifiCorp; Gerard K. Drummond, former Executive Vice-President PacifiCorp; and Paul H. Proctor, former Treasurer Energy West.

Respondent's service of such Notices is inappropriate given Judge Rampton's Order granting Applicant temporary relief pending final determination of the issues and given that Judge Rampton has held the Cessation Order in abeyance. Further, Respondent has failed to pursue available administrative remedies. Its actions constitute harassment of Applicant and its officers.

Applicant respectfully requests that Your Honor direct Respondent to withdraw the Notices of Potential Individual Civil Penalty it has served and enjoin Respondent from any further enforcement action on the Notice of Violation or Cessation Order until a final determination of this proceeding has been reached.

RESPECTFULLY SUBMITTED this 31st day of January, 1994.



Handwritten signature of John S. Kirkham, written in black ink over a horizontal line.

JOHN S. KIRKHAM

JAMES R. HAISLEY

STOEL RIVES BOLEY JONES & GREY

Attorneys for PacifiCorp

201 South Main Street, Suite 1100

Salt Lake City, UT 84111-4904

Telephone: (801) 328-3131

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Order Temporarily Enjoining Respondent from Enforcement Action on Notice of Violation 93-020-190-05 and Cessation Order 94-020-190-01, together with Applicant's proposed Order was mailed, postage prepaid, this 31st day of January, 1994 to:

Jon K. Johnson, Esq.
Office of the Field Solicitor
U.S. Department of the Interior
P.O. Box 25007 (D-105)
Denver, Colorado 80225-0007

Sharon L. Astin



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Hearings Division
6432 Federal Building
Salt Lake City, Utah 84138
(Phone: 801-524-5344)

January 19, 1994

RECEIVED

JAN 20 1994

ORDER

PACIFICORP,	:	Docket No. DV 94-7-R
	:	
Applicant	:	Application for Review and Temporary Relief
	:	
v.	:	
	:	Notice of Violation
OFFICE OF SURFACE MINING	:	No. 93-020-190-05
RECLAMATION AND	:	
ENFORCEMENT (OSMRE),	:	Des-Bee-Dove Mine, Emery County
	:	
Respondent	:	

Motion for Summary Decision Denied and Temporary Relief Granted

In the above entitled proceeding an expedited hearing was held on January 14, 1994. Applicant was represented by James R. Haisley, Esq., and John S. Kirkham, Esq., and the respondent by Jon K. Johnson, Esq.

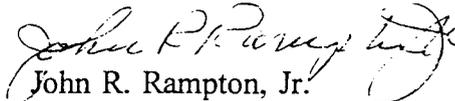
Prior to the taking of testimony, the respondent stipulated that the condition cited in the Notice of Violation No. 93-020-190-05 (NOV) would not adversely affect the health or safety of the public or cause significant imminent environmental harm to land, air or water resources. Evidence was received as to the fact of violation and whether temporary relief should be granted from immediate enforcement of the NOV which required abatement to be completed no later than 8:00 a.m. on January 13, 1994.

The following issues as to fact and law are:

1. Whether respondent provided ten-day notice to the Utah Division of Oil, Gas and Mining (DOG M) prior to the issuance of the NOV.

2. Whether the abatement and control measures taken by applicant in response to the ten-day notice issued September 5, 1991, issued by the respondent, as approved by DOGM, constitute all current prudent engineering practices to control or prevent erosion and whether or not a violation exists which requires the issuance of an NOV.

Based upon a ruling that there is a substantial likelihood that applicant will prevail on the issues named, the motion for summary dismissal is denied and temporary relief from enforcement of the NOV is granted until final determination of this proceeding.


John R. Rampton, Jr.
District Chief
Administrative Law Judge

Distribution
By Certified Mail:

James R. Haisley, Esq.
John S. Kirkham, Esq.
Stoel Rives Boley Jones & Grey
One Utah Center, Suite 1100
201 South Main Street
Salt Lake City, Utah 84111-4904

Jon K. Johnson, Esq.
Office of the Field Solicitor
U.S. Department of the Interior
P.O. Box 25007 (D-105)
Denver Federal Center
Denver, Colorado 80225-0007

Doc W Jense

Name of Corporate Official

This Notice of Potential Individual Civil Penalty is being issued in accordance with the requirements of Section 518(f) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1268. Final action on the ICP will be in abeyance until the final outcome in the case dealing with Notice of Violation 93-020-190-005 and Cessation Order 94-020-190-001.



INE 4-1

NOTICE OF POTENTIAL LIABILITY FOR AN INDIVIDUAL CIVIL PENALTY ASSESSMENT
UNDER SECTION 518(F) OF THE SURFACE MINING CONTROL AND RECLAMATION ACT
OF 1977, 30 U.S.C. 1268(f)

Dee W Jense
Name of Corporate Official

Vice President
Title of Corporate Official

Energy West Mining Co
Name of Corporate Permittee

CO 94020190 01
Citation Number

Ad/015/017 Utah
Permit Number

As [Corporate Title] of the above-referenced corporate permittee, you are hereby notified that the corporation has been issued Cessation Order (CO) No. _____, a copy of which is attached. As indicated on the cessation order continuation page, the CO was issued because either a condition, practice, or violation is creating an imminent danger to the health and safety of the public or a condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

The Office of Surface Mining Reclamation and Enforcement (OSM), pursuant to Section 518(f) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1268(f), may assess an Individual Civil Penalty (ICP) against a director, officer, or agent of a corporate permittee which has violated a condition of its permit or fails or refuses to comply with a cessation order. Section 518(f), in pertinent part, provides that:

[A]ny director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties that may be imposed upon a person under [Section 518(a)]

You will be subject to assessment of an Individual Civil Penalty if you willfully and knowingly fail or refuse to take all reasonable steps within your authority to bring about abatement of the violation(s) contained in the cessation order within 30 days after the abatement date set forth in the cessation order.

This notice is being sent to you because, in your position as [Corporate Title] of the corporate permittee, OSM considers you to possess the legal authority to bring about abatement of the violation(s) described in this cessation order. For any violation cited in the cessation order that is not abated within the time prescribed above, you may submit, for OSM's consideration, written documentation that describes with specificity all reasonable steps you took in your corporate capacity to bring about abatement. Such documentation should be submitted to [enter assessment office and address], within 45 days after the abatement date set forth in the cessation order.

INE4-1

CERTIFICATION OF SERVICE OF ICP NOTIFICATION

FOR CO # _____

Signature of Individual Served

Date Served

I certify that a copy of ICP notice was served upon _____.

Print Name of Server

Signature of Server

If not personally served, enter certified mail receipt number: _____.

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
CESSATION ORDER

1. Cessation Order Number
94-020-190-01

TV 1

2. Name Permittee
 No Permit

Pacifi Corp

Originating Office Address
Office of Surface Mining
505 Marquette NW
Suite 1200
Albuquerque NM
87102

3. Mailing Address
Pacifi Corp Fuel Resources Dept
Huntington Field Office PO Box 1005 Huntington Ut 84528

4. Name of Mine Surface Other (Specify) Underground

Des Bee Day

5. Telephone Number 801 653 2312
6. County Emery
7. State Utah

Telephone Number
505 766 1486

7. Operator's Name (If other than permittee)

Energy West Mining Company

9. Date of Inspection

8. Mailing Address
PO Box 310 Huntington Utah 84528

10. Time of Inspection
From _____ a.m. To _____ a.m.
p.m. p.m.

11. State Permit Number Ad/015/017
12. NPDES Number
13. MSHA ID Number
14. OSM Mine Number

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued for each violation(s) of the Act, the regulations, or required permit conditions listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice, or violation listed.

In accordance with Section 521(a) of the Surface Mining Control and Reclamation Act of 1977, YOU ARE ORDERED TO CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the corrective actions described in the attachment(s) within the designated abatement time. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS ORDER DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this Order (30 CFR 722.15).

This Order shall remain in effect until it expires as provided on the reverse or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary.

CERTIFIED RETURN RECEIPT #P 965 799 454

IMPORTANT—Please Read Information on the Back of this Page

15. Print Name of Person Served
Karl R. Houskeeper

18. Date of Service
The W Wright 1/13/94

16. Print Title of Person Served
Environmental Engineer

19. Print Name of Authorized Representative
Thomas W Wright

17. Signature of Person Served
Karl R. Houskeeper

20. Signature of Authorized Representative ID Number
The W Wright 190

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

Cessation Order Number
94-020-190-01

Violation Number
_____ of _____

CESSATION ORDER (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

Failure to abate Notice of Violation 93 020 190 05 1 of 1
Specifically Failure to eliminate rills and gullies and stabilize
slopes on mine haulroad above the sediment pond

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

State of Utah Coal Mining Rules R645-400 314

Mark "X" in the appropriate box

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- The permittee or operator has failed to abate Violation No. 1 of 1 included in Notice of Violation No. 93-020-190-05 within the time for abatement originally fixed or subsequently extended pursuant to Section 521(a)(3) of the Act.

OPERATIONS TO BE CEASED IMMEDIATELY

Cease usage of haulroad except those activities required
to abate the violation or meet requirements of other applicable
laws and regulations

CORRECTIVE ACTION AND TIME FOR ABATEMENT (If Applicable — Not Required if F.T.A)

NA

CERTIFIED RETURN RECEIPT #P 965 799 454



U. S. DEPT. OF THE INTERIOR

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Mine-Site Evaluation Inspection Report



<p>1. Permittee/Person UTAH POWER & LIGHT CO.</p> <p>2. Address MINING DIVISION,</p> <p>3. City HUNTINGTON</p> <p>4. State UT</p> <p>5. Zip Code 84528</p> <p>6. Phone Number 801-687-9821</p> <p>7. Operator if Different than Permittee</p> <p>8. Mine Name DES-BEE-DOVE</p>		<p>9. Permit Number UT-015-017-X</p> <p>10. Type a. Permit PP b. RA S</p> <p>11. Inspection Date 01/13/94 <small>MM - DD - YY</small></p> <p>12. Inspection Type FP</p> <p>13. Joint Inspection N Y/N</p> <p>14. Permit Status IN</p> <p>15. Site Status TC</p> <p>16. Facility Type B</p> <p>17. OSM Office # 020</p> <p>18. RSI #</p> <p>19. Land Code F</p> <p>20. M.S.H.A. ID # 42-00988</p> <p>21. State Code 49</p> <p>22. County Code 015</p> <p>23. AVS Permittee Entity ID Number 108524</p> <p>23b. State Office</p>		
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24. Performance Standard Categories

Codes: 1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere

<p>A. Administrative</p> <p>1. <input type="checkbox"/> Mining within Valid Permit</p> <p>2. <input type="checkbox"/> Mining within Bonded Area</p> <p>3. <input type="checkbox"/> Terms & Conditions of Permit</p> <p>4. <input type="checkbox"/> Liability Insurance</p> <p>5. <input type="checkbox"/> Ownership and Control</p> <p>6. <input type="checkbox"/> Temporary Cessation</p> <p>B. Hydrologic Balance</p> <p>1. <input type="checkbox"/> Drainage Control</p> <p>2. <input type="checkbox"/> Inspections & Certifications</p> <p>3. <input type="checkbox"/> Siltation Structures</p> <p>4. <input type="checkbox"/> Discharge Structures</p> <p>5. <input type="checkbox"/> Diversions</p> <p>6. <input type="checkbox"/> Effluent Limits</p> <p>7. <input type="checkbox"/> Ground Water Monitoring</p> <p>8. <input type="checkbox"/> Surface Water Monitoring</p> <p>9. <input type="checkbox"/> Drainage -- Acid-Toxic Materials</p> <p>10. <input type="checkbox"/> Impoundments</p> <p>11. <input type="checkbox"/> Stream Buffer Zones</p> <p>C. Topsoil & Subsoil</p> <p>1. <input type="checkbox"/> Removal</p> <p>2. <input type="checkbox"/> Substitute Materials</p> <p>3. <input type="checkbox"/> Storage and Protection</p> <p>4. <input type="checkbox"/> Redistribution</p>	<p>D. Backfilling & Grading</p> <p>1. <input type="checkbox"/> Exposed Openings</p> <p>2. <input type="checkbox"/> Contemporaneous Reclamation</p> <p>3. <input type="checkbox"/> Approximate Original Contour</p> <p>4. <input type="checkbox"/> Highwall Elimination</p> <p>5. <input type="checkbox"/> Steep Slopes (includes downslope)</p> <p>6. <input type="checkbox"/> Handling of Acid & Toxic Materials</p> <p>7. <input type="checkbox"/> Stabilization (rills and gullies)</p> <p>E. Excess Spoil Disposal</p> <p>1. <input type="checkbox"/> Placement</p> <p>2. <input type="checkbox"/> Drainage Control</p> <p>3. <input type="checkbox"/> Surface Stabilization</p> <p>4. <input type="checkbox"/> Inspections & Certifications</p> <p>F. Coal Mine Waste (Refuse Piles/Impoundments)</p> <p>1. <input type="checkbox"/> Drainage Control</p> <p>2. <input type="checkbox"/> Surface Stabilization</p> <p>3. <input type="checkbox"/> Placement</p> <p>4. <input type="checkbox"/> Inspections and Certifications</p> <p>5. <input type="checkbox"/> Impounding Structures</p> <p>G. Use of Explosives</p> <p>1. <input type="checkbox"/> Blaster Certification</p> <p>2. <input type="checkbox"/> Distance Prohibitions</p> <p>3. <input type="checkbox"/> Blast Survey/Schedule</p> <p>4. <input type="checkbox"/> Warnings & Records</p> <p>5. <input type="checkbox"/> Control of Adverse Effects</p>	<p>H. Subsidence Control Plan</p> <p>I. Roads</p> <p>1. <input type="checkbox"/> Road Construction</p> <p>2. <input type="checkbox"/> Certification</p> <p>3. <input type="checkbox"/> Drainage</p> <p>4. <input checked="" type="checkbox"/> Surfacing and Maintenance</p> <p>5. <input type="checkbox"/> Reclamation</p> <p>J. Signs & Markers</p> <p>1. <input type="checkbox"/> Signs</p> <p>2. <input type="checkbox"/> Markers</p> <p>K. Distance Prohibitions</p> <p>L. Revegetation</p> <p>1. <input type="checkbox"/> Vegetative Cover</p> <p>2. <input type="checkbox"/> Timing</p> <p>M. Postmining Land Use</p> <p>N. Other</p> <p>_____ 1) _____</p> <p>_____ 2) _____</p> <p>_____ 3) _____</p>
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<p>25. Inspection Frequency</p> <p>a. Date of Last State Complete Inspection //</p> <p>Frequency for previous 4 Calendar Qtrs.</p> <p>b. Number of required complete inspections 0 Number of complete inspections conducted 0</p> <p>c. Number of required partial inspections 0 Number of partial inspections conducted 0</p>	<p>26. Inspection Hours</p> <p>a. Permit Review 5.0</p> <p>b. Inspection Time 5.0</p> <p>c. Travel Time 8.0</p> <p>d. Report Writing 1.5</p>	<p>27. Bonded Acres</p> <p>a. Total bonded 78.0</p> <p>b. Phase I released 0.0</p> <p>c. Phase II released 0.0</p> <p>d. Phase III released 0.0</p>	<p>28. Acres</p> <p>a. Permitted 2847.0</p> <p>b. Disturbed (Estimated) 78.0</p>
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U. S. DEPT. OF THE INTERIOR

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Mine-Site Evaluation Inspection Report

 Permit Number UT-015-017-X

 Inspection Date 01/13/94

29. Identified Violation Data.

For inspection types C (Complete Random Sample) and SC or SP (Complete or Partial In-depth Review), list all violations present during the current Federal inspection and all violations, cited or uncited, identified in the last State complete inspection report. For any other inspection type, including Federal program inspections, list only violations observed during the current inspection or subject of current Federal follow-up actions.

B Per. Std. Category	C Abated (Y/N)	D State Action	E Reason if Uncited	F Cause	G Seriousness		H Impact	I OSM Action	J OSM Action Number		K Optional
					PEO	Impact				V#	
A. Specific State Law/Regulations Violated: <u>R 645-400-314</u> Description: <u>FAILURE TO ABATE NOV 93-020-190-05 1 OF 1.</u>											
1	I4	N	2		4	3	2	4	C94-020-190-001	V# 01	
A. Specific State Law/Regulations Violated: _____ Description: _____											
2										V#	
A. Specific State Law/Regulations Violated: _____ Description: _____											
3										V#	
A. Specific State Law/Regulations Violated: _____ Description: _____											
4										V#	
A. Specific State Law/Regulations Violated: _____ Description: _____											
5										V#	
A. Specific State Law/Regulations Violated: _____ Description: _____											
6										V#	
A. Specific State Law/Regulations Violated: _____ Description: _____											
7										V#	

- | | | |
|---|--|--|
| D. State Action
1) Existed on LSCI, Cited
2) Existed on LSCI, Not Cited
3) Cited Prior to LSCI, Abatement Pending
4) Occurred Since LSCI
5) N/A Federal Program
6) N/A Permit Defect | E. State's Reason for not Citing Violation
1) Not a Violation
2) Precluded by State Policy
3) Not Included under State Program
4) Warning Given in Lieu of a Citation
5) Violation Not Recognized
6) Practice Allowed under Approved Permit
7) Too Minor to Cite
8) Working with Operator to Correct
9) Other _____ | F. Cause
1) Permit Defect
2) Unusual Weather Conditions
3) Unofficial Waiver
4) Operator Negligence
5) Other _____ |
| H. Impact
Damage Remains Within the Permit Area
1) None or Minor
2) Moderate
3) Considerable
Damage Extends Beyond the Permit Area
4) None or Minor
5) Moderate
6) Considerable
Obstruction to Enforcement
7) None or Minor
8) Moderate
9) Considerable | I. OSM Action This Inspection
1) Deferred to State Action
2) TDN Issued
3) NOV Issued
4) FTA-CO Issued
5) IH-CO Issued (Imminent Environmental Harm)
6) ID-CO Issued (Imminent Danger to Public)
7) Previously Cited by RA, Abatement Pending
8) Abated during or before OSM Inspection
9) Follow-up of Federal Action | |

30. Signature

 Inspector's Signature

THOMAS WRIGHT
 Inspector's Printed Name

31. OSM Inspector ID# 190

Dated: 01/20/94

Reviewing Official:
 Review Date: 1-24-94

Page 2 of 2
Revised July 1, 1993

Minesite Inspection Narrative

Inspection Dates January 13, 1994

Mine: DesBeeDove

Company:
PacificCorp
P.O. Box 1005
Huntington, Utah 84528

Operator
Energy West Mining Company
P.O. Box 310
Huntington, Utah 84528

Individuals present during inspection:

Karl Houskeeper, Energy West Mining Company
Thomas W. Wright, OSM

Weather: sunny and cool

Comments

This was a followup inspection done to check on abatement of Notice of Violation (NOV) 93-020-190-05 1 of 1 which had been issued as a result of a Random Sample Inspection done the previous December. A Federal Notice of Violation was issued because the Utah Division of Oil Gas and Mining (DOG M), had improperly terminated a DOGM Notice of Violation issued in response to a Ten Day Notice for the area in question. This NOV was issued for failure to control or prevent erosion on slopes of the mine haulroad above the mine sediment pond.

On January 11, 1994 Karl Housekeeper of Energy West Mining called to request an extension for the Notice of Violation in a followup to a conversation he had with the Albuquerque Field Office (AFO), during the previous week. He also stated that a written copy of the request was being faxed to AFO. I told Mr. Housekeeper that an extension would not be granted at that point and I would evaluate conditions of the site ~~on~~ before deciding on any further action.

Minesite Inspection Narrative
Page 2 of 2

Inspection of the area covered under the NOV was done during the morning of January 13, 1994. No work had been done on the area cited in the NOV and no equipment was parked at the site. The slopes covered by the NOV were snowfree and not frozen. As the operator had not abated the NOV and in fact made no attempt to repair this area Failure to Abate Cessation Order 94-020-190-001 was issued to the company at the conclusion of this inspection.

On the following day, January 14, 1994 a hearing for Temporary Relief was held for these enforcement actions in Salt Lake City. As a result of this hearing Temporary Relief was granted, however this decision is in the process of being appealed by OSM.