

Des-Bee Dove Haul Road
Chronological Order of Events
Preceding Emery County
Road Assumption - 1997

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

TABLE OF CONTENTS

- 1. Nov. 10, 1997- Extension letter approval - December 2, 1997**
- 2. Nov. 5, 1997-90 day extension letter - Draft amendment by Dec. 2, 97**
- 3. Sept. 17, 1997-Public Hearing Minutes By The County Commission**
- 4. Sept. 17, 1997-Public Hearing Agenda from Commission Meeting**
- 5. Sept. 2, and 9, 1997-Public Hearing Newspaper Notice Concerning Des-Bee-Dove Haul Road**
- 6. Aug. 28, 1997-Letter to Charles Semborski from Emery County Road Department inviting attendance to a Commission Session in Castle Dale, involving discussion of Des-Bee-Dove Haul Road**
- 7. Aug. 11, 1997-Request to DOGM for an extension of time to allow further proceedings involving the County interest in the haul road to transpire.**
- 8. July 29, 1997-60 day, disposition of haul road, plans and action.**
- 9. June 18, 1997-Letter from Dave Lauriski to the County regarding possible interest and assuming the haul road.**
- 10. June 10, 1997-Letter from DOGM on findings concerning NOV 97-41-3-1**
- 11. April 28, 1997-Informal hearing conference notice at DOGM office on said Violation.**
- 12. April 4, 1997-Letter from Emery County in reply to newspaper notice of intent to reclaim Des-Bee-Dove haul road.**
- 13. March 27, 1997-Proposed assessment for State Violation N-97-41-3-1**
- 14. Feb. 26, 1997-Notice of intent to reclaim Des-Bee-Dove Haul Road**
- 15. Feb. 18, 1997-Letter from Texaco Exploration and Production Inc. concerning meeting with Texaco Rep. Robert Schaffitzel on Texaco and its' involvement in the violation.**
- 16. Mar. 6, 1997-Abatement Notice**
- 17. Feb. 13, 1997-Violation issued by DOGM**
- 18. Feb. 12, 1997-DOGM field inspection with Energy West**

November 21, 1997

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- 1. Nov. 10, 1997- Extension letter approval - December 2, 1997***



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

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

November 10, 1997

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

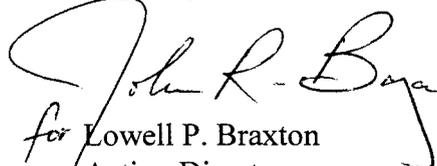
Re: Postmining Land Use for the Des Bee Dove Haul Road, PacifiCorp, Des Bee Dove Mine, ACT/015/017, Folders #2 and #5, Emery County, Utah

Dear Mr. Semborski:

The Division is in receipt of your November 5, 1997, letter discussing the efforts of Energy West to resolve the disposition of the Des Bee Dove haul road. The letter also says Energy West would commit to an amendment draft by December 2, 1997. When the Division's response is received, corrections will be made and seven final copies will be submitted.

Considering the efforts Energy West has made toward resolving postmining land use issues associated with the road, the extension request to December 2, 1997, is approved. The Division appreciates your cooperation.

Sincerely,


for Lowell P. Braxton
Acting Director

tat

cc: Mary Ann Wright
Daron Haddock
Pamela Grubaugh-Littig
Joe Helfrich

O:\015017.DBD\FINAL\DOEXT.WPD

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

- 2. Nov. 5, 1997-90 day extension letter - Draft amendment by Dec. 2, 97***



November 5, 1997

Utah Coal Regulatory Program
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801

Attention: Mr. Lowell Braxton

**Re: PacifiCorp, Des-Bee-Dove Mine, ACT/015/017, NOV N97-41-3-1, Emery County,
Utah, Disposition of the Des-Bee-Dove Haul Road**

As part of the findings of fact of NOV N97-41-3-1, the Division requested that *"Within 60 days of receipt of this Order, the permittee shall submit plans to the Division that discuss the disposition of the roadside ditch containing the pipeline that is subject of the NOV upon reclamation of the Des-Bee-Dove haul road"*. On July 29, 1997 Energy West requested and received approval for a 90 day extension to resolve the disposition of the Des-Bee-Dove haul road. As you are aware, resolution of the haul road was complicated by School and Institutional Trust Lands Administration granting multiple easements allowing Texaco to install gas and water lines adjacent to the haul road. As a result of the construction activities by Texaco, PacifiCorp received the NOV for failure to maintain drainage control. As indicated in the July 29, request, PacifiCorp has been actively pressing a resolution of the haul road. The following is a updated chronological history of the measures that PacifiCorp has taken to resolve the disposition of the haul road:

1. February 26, 1997 - PacifiCorp submits to the State of Utah a Notice of Intent to reclaim the Des-Bee-Dove mine, including the portion of the haul road within the permit area. A copy of the notice of intent was sent to School and Institutional Trust Lands Administration, Bureau of Land Management, U.S. Forest Service, Emery County Commission, and Texaco Exploration Production Inc.
2. April 4, 1997 - Energy West Mining Company receives a letter from Rex Funk, Road Supervisor, Emery County, Utah. Mr. Funk states there may be a public interest in the Des-Bee-Dove haul road. He suggests that Energy West direct a letter to the Emery County Commission regarding possible assumption of the road.
3. June 18, 1997 - Energy West Mining Company submits a letter to the Emery County Commission concerning the assumption of the Des-Bee-Dove haul road.

Huntington Office:
(801) 687-9821
Fax (801) 687-2695
Purchasing Fax (801) 687-9092

Deer Creek Mine:
(801) 381-2317
Fax (801) 381-2285

Cottonwood Mine:
(801) 748-2319
Fax (801) 748-2380

D.O.G.M. - Request for extension

November 5, 1997

Page Two

4. Public Notice published in the Emery County Progress on September 2, and September 9, 1997 ***"The purpose of the Public Hearing, is to receive public comment on whether the Emery County Commission should accept and add the following road to the County Road System in order to provide access"*** (see attached notice).
5. September 17, 1997 - Emery County Board of County Commissioners Public Hearing ***"To receive public comment on whether the Emery County Commission should accept and add the Des-Bee-Dove Road to the county road system in order to provide public access"***. Commissioner Bevan Wilson as a result of this public meeting made a motion to pursue negotiations with Energy West and Emery County to work on a plan to bring the road to an agreeable standard, to coordinate with County Attorney David Blackwell to prepare the documents to transfer the road to the county system. The motion was seconded by Commissioner Kent Peterson and approved by all members present (see attached minutes).
6. October 23, 1997 - Energy West and Emery County met to discuss disposition of the Des-Bee-Dove haul road. As a result of the meeting, a MOU will be developed outlining an assignment of the ROW's from PacifiCorp to Emery County.

In response to the position expressed by Emery County, PacifiCorp requested a meeting with the Division concerning the disposition of the Des-Bee-Dove haul road held in the Salt Lake Division office on October 30, 1997. This meeting involved a discussion concerning the haul road assumption by Emery County and some Division guidelines, procedures and regulations that would need to be addressed that would help in resolving the disposition of the Des-Bee-Dove haul road/assignment to Emery County.

Energy West was to respond to the Division by November 7, 1997 concerning the disposition of Des-Bee-Dove haul road. Therefore, since the time of requesting the 90 day extension, positive and affirmative action with the County and Energy West has transpired. Wherein, the County's request to assume all rights-of-way of the haul road has been agreed in principle to by both parties. It is our intent to completely remove and assign the rights-of-way (traversing across U.S.F.S., BLM, State Lands) of said Des-Bee-Dove haul road from the permit area and assign the rights-of-way to Emery County. A Memorandum of Understanding between Energy West and Emery County is being developed and will be signed when all items of concern are finalized. A copy of this document will be provided to the Division as a matter of record when available.

D.O.G.M. - Request for extension
November 5, 1997
Page Three

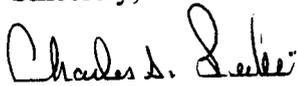
As discussed in the above mentioned meeting, an amendment would be required to address several issues pertaining to Post Land Use within the ROW of the haul road, changes to the ROW boundary description within the Special Use Lease Application Area, and total ROW of the haul road. These issues will be addressed and an amendment provided to cover the requirements necessary.

It is our intent to submit an amendment to address the issues discussed above as a draft copy for your review, when your response is received, any corrections can be finalized and the amendment will then be submitted in compliance with the Division Regulations and will include seven copies.

At this time Energy West would commit to that amendment draft on the above issues by December 2, 1997.

Thank you for your help and assistance in resolving these matters, if there are any questions or suggestions that will further assist us in finalizing these issues please call Richard Northrup at 687-4822 or Chuck Semborski at 687-4720.

Sincerely,



Charles Semborski
Environmental and Geology Supervisor

cc: Blake Webster
Scott Child
Carl Pollastro
Susan Tuttle for (File)
John Kirkham (Stoel Rives)
Charles Semborski

November 21, 1997

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- 3. Sept. 17, 1997-Public Hearing Minutes By The County Commission***

(4)

5:00p.m. PUBLIC HEARING- To receive public comment on whether the Emery County Commission should accept and add the Des Bee Dove Road to the county road system in order to provide public access.

Commissioner Bevan Wilson provided opening remarks. Emery County had received word that Energy West was going to reclaim the road from Des Bee Dove Road to the haul road State #57. In discussion with Energy West, the road department looked into an option of Emery County taking over jurisdiction of this road and leaving it open to provide public access. Through the Mine Reclamation Plan this road would be put back to its original state if the county does not assume ownership of the road. The county had a meeting with Energy West to discuss the options the county might have if they did take it over. Drafts are being put together by Johansen & Tuttle Engineering as to the scope of work that will have to be done to bring it up to an acceptable standard before the county could take it over. When the scope of the work with the cost estimates is complete, it will be reviewed by the county staff and put back out to Energy West for further discussion. The old existing trails would remain if the reclamation by Energy West did happen. Commissioners Wilson, Commissioner Petersen, Howard Tuttle, Rex Funk and Val Payne took a tour of the road to assess the county's option. If the end result of this Public Hearing is to assume the road into the county system, then they would look at some turnaround areas and parking areas. If the county does not opt to take it over then under the mine plan Energy West would be required to reclaim the road. It would revert back to its natural state, no longer be a road or be allowed public access.

Commissioner Wilson's opening comments were echoed by Road Supervisor, Rex Funk, adding his support for leaving the road open. He gave details of the procedures for maintaining the road if returned to the county system. Public comment was received from Mark H. Williams and Larry Harrington, citizens of Castle Dale, Val Payne, Public Lands Director, representatives from Texaco Oil, who are utilizing the road with their coalbed methane production, as well as each of the Commissioners, in support of leaving the road open for public access.

Commissioner Bevan Wilson made a motion to close the public hearing. The motion was seconded by Commissioner Kent Petersen and approved by all members present.

Commissioner Bevan Wilson as a result of this public hearing made a motion to pursue negotiations with Energy West and Emery County to work on a plan to bring the road to an agreeable standard, to coordinate with County Attorney David Blackwell to prepare the documents to transfer the road to the county system. The motion was seconded by Commissioner Kent Petersen and approved by all members present.

(5)

6:00p.m. PUBLIC HEARING- To receive public comment on whether the Emery County Commission should include the plant: PURPLE LOOSESTRIFE as a county noxious weed.

Weed & Mosquito Director, James Nielson, explained the origin of Purple Loosestrife. This plant is an exotic, perennial weed from Eurasia. The last several years it has come to the forefront of discussion and activities of those who are involved in the wetlands. It is the only plant that he is aware of that is a threat to our wetlands. There are no natural controls for Purple Loosestrife. Emery County has the only known infestation of that plant on the Colorado River Drainage. For that reason there are a lot of individuals, involved with invading weeds in the United States, that are keeping an eye on what we can do with this weed in Emery County and

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- 4. Sept. 17, 1997-Public Hearing Agenda from Commission Meeting***

NOTICE OF REGULAR MEETING OF THE
BOARD OF COUNTY COMMISSIONERS OF
EMERY COUNTY, UTAH

PUBLIC NOTICE is hereby given that the Board of County Commissioners of Emery County, Utah, will meet in the regular public session on Wednesday, September 17, 1997 in the Emery County Courthouse, 95 E. Main Street, Castle Dale, Utah.

The Agenda for the meeting is as follows:

1. Pat Snowball, Personnel Director, Approval of personnel action.
2. Approval check edit list, additional claims, requisitions and dispositions.
3. Nathan Johanson, Discussion of Esquire Estates trailer park and related matters.
4. 5:00 p.m. - PUBLIC HEARING - To receive public comment on whether the Emery County Commission should accept and add the Des Bee Dove Road to the county road system in order to provide public access.
5. 6:00 p.m. - PUBLIC HEARING - To receive public comment on whether the Emery County Commission should include the plant: Purple Loosestrife as a county noxious weed.
6. Citizen concerns.
7. Road Department/Landfill items.
 - A. Bid Opening for purchase of landfill scales.
 - B. Consideration of awarding bid for landfill scales.
 - C. Update on street light at Intersection U57 Haul Road.
8. Discussion of Goblin Valley Road project and consideration for 1998 Phase II..
9. Discussion of BLM OHV road/travel plans.
10. Consideration and approval of contract agreement between SEUALG, Area Aging, and Emery/Grand RSVP.
11. Discussion of annual UAC gift.
12. Approval of previous commission meeting minutes.
13. Commission reports.
14. Executive session to discuss litigation and personnel concerns.

Any other business which may regularly come before the Board. Please call ahead if you need specific accommodations that will assist you to fully participate at this meeting at 381-2139.

Dated: Sept 15, 1997

By: CARL FOX
Bruce C. Funk, Emery County Clerk/Auditor

381-5450

November 21, 1997

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- 5. Sept. 2, and 9, 1997-Public Hearing Newspaper Notice Concerning Des-Bee-Dove Haul Road***

PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN that the Board of Emery County Commissioners will hold a Public Hearing on September 17, 1997 at 5:00 PM in the Commission Chambers of the Emery County Courthouse at 95 East Main Castle Dale, Utah .

The purpose of the Public Hearing, is to receive public comment on whether the Emery County Commission should accept and add the following road to the County Road System in order to provide public access:

PacifiCorp Crossover Road from SR57 East to the North end of the Des Bee Dove Road.

Those persons unable to attend the meeting and others may submit written comments to the Office of Emery County Clerk/Auditor 95 East Main, P.O Box 907 Castle Dale, Utah 84513 on or before 5:00 PM September 17, 1997.

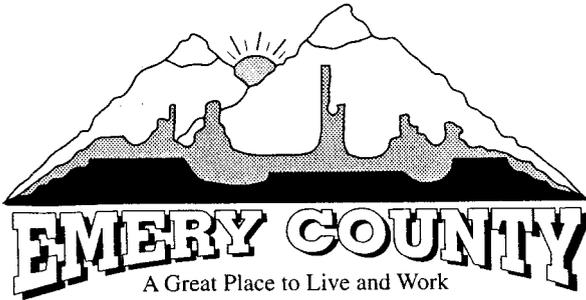
/s/Bruce C. Funk
Emery County Clerk/Auditor

Published in the Emery County Progress: September 2, and 9, 1997

November 21, 1997

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- 6. Aug. 28, 1997-Letter to Charles Semborski from Emery County Road Department inviting attendance to a Commission Session in Castle Dale, involving discussion of Des-Bee-Dove Haul Road***



Road Department

August 28, 1997

Mr. Chuck Semborski
Energy West Mining Company
P. O. Box 310
Huntington, Utah 84528

Dear Mr. Semborski:

During the regularly scheduled commission session in Green river on August 27th, the Emery County Commissioners set a public hearing date to receive comments on the possible incorporation of the Des Bee Dove Mine Crossover Haul Road west to SR57 into the county road system. The hearing will be conducted in the Courthouse Commission Chambers September 17, 1997 at 5:00 p.m.

You or a representative from Energy West are cordially invited to be in attendance should questions arise specifically associated with this transaction.

Sincerely,

Rex Funk, Supervisor
Emery County Road Department

cc: Bevan Wilson, Commissioner
Randy Johnson, Commissioner
Kent Petersen, Commissioner
Val Payne, Public Lands
Johansen & Tuttle Engineering

November 21, 1997

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- 7. Aug. 11, 1997-Request to DOGM for an extension of time to allow further proceedings involving the County interest in the haul road to transpire.***



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

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

August 11, 1997

Chuck Semborski
Environmental and Geology Supervisor
Energy West Mining Company
P. O. Box 310
Huntington, Utah 84528

Re: Request for 90-Day Extension, PacifiCorp. Des-Bee-Dove Mine, ACT/015/017,
Folder #5, Emery County, Utah

Dear Mr. Semborski:

This letter is in response to your letter dated July 29, 1997, requesting a 90-day extension. The Division hereby grants Energy West's request for a 90-day extension to resolve the disposition of the Des-Bee-Dove haul road.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Carter".

James W. Carter
Director

vb

cc: L. Braxton
M. Wright

P:\GROUPS\MINES\WP\MAW\015-017.EXT

November 21, 1997

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- 8. July 29, 1997-60 day, disposition of haul road, plans and action.***



July 29, 1997

Utah Coal Regulatory Program
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Attention: Lowell Braxton

**Re: PacifiCorp, Des-Bee-Dove Mine, ACT/015/017-Folder #5, Emery County, Utah,
Order - 60 day, disposition of roadside ditch. NOV-N97-41-3-1.**

On May 15, 1997, an Informal Hearing and Assessment Conference was held to review the fact of violation and proposed assessment for state violation N97-41-3-1. The NOV was issued to PacifiCorp on February 13, 1997 and abated on February 27, 1997.

The following **Order**, dated June 10, 1997, was established from the Informal Hearing and Assessment Conference:

1. NOV N97-41-3-1 is vacated.
2. Within 45 days of receipt of this Order, PacifiCorp must complete maintenance of the roadside ditch and culverts that are the subject of the NOV to assure function as contemplated under the Utah Coal Regulatory Program

PacifiCorp addressed this order in correspondence submitted to the Utah Coal Regulatory Program on July 16, 1997.

3. Within 60 days of receipt of the Order, the permittee shall submit plans to the Division that discuss the disposition of the roadside ditch containing the pipeline that is subject of the NOV upon reclamation of the Des-Bee-Dove haul road.

This submittal discusses the disposition Des-Bee-Dove haul road which includes the roadside ditch containing the pipeline that is the subject of the NOV. A chronological history of the measures that PacifiCorp has taken to resolve the disposition of the Des-Bee-Dove haul road will provide pertinent information in regards to the order. That chronology follows:

1. February 26, 1997 - PacifiCorp submits to the State of Utah a Notice of Intent to reclaim the Des-Bee-Dove mine, including the portion of the haul road within the permit area. A copy of the notice of intent was sent to School and Institutional

Huntington Office:
(801) 687-9821

Fax (801) 687-2695

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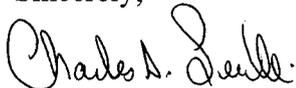
Trust Lands Administration, Bureau of Land Management, U.S. Forest Service, Emery County Commission, and Texaco Exploration Production Inc.

2. April 4, 1997 - Energy West Mining Company receives a letter from Rex Funk, Road Supervisor, Emery County, Utah. Mr. Funk states there may be a public interest in Des-Bee-Dove haul road. He suggests that Energy West direct a letter to the Emery County Commission regarding possible assumption of the road.
3. June 18, 1997 - Energy West Mining Company submits a letter to the Emery County Commission concerning the assumption of the Des-Bee-Dove haul road.

Energy West Mining Company has not received an official response from Emery County concerning the assumption of the Des-Bee-Dove haul road. Conversations with Emery County personnel indicate the county is still discussing the assumption of the haul road. Energy West does not anticipate receiving an official response from Emery County by the end of the 60 day response period specified in the order. With this in mind, Energy West Mining Company is requesting a 90 day extension to resolve the disposition of the Des-Bee-Dove haul road. The extension will allow Emery County the opportunity to fully evaluate the assumption of the Des-Bee-Dove haul road. Based on the response from Emery County, Energy West Mining Co. will develop a plan to address the disposition of the haul road.

Thank you for your assistance and support in dealing with this matter. If there are any further questions or concerns please call Bob Willey at (801)-687-4722 or Chuck Semborski at (801)-687-4720.

Sincerely,



Charles A. Semborski

Environmental and Geology Supervisor

November 21, 1997

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- 9. June 18, 1997-Letter from Dave Lauriski to the County regarding possible interest and assuming the haul road.***



June 18, 1997

Emery County Commissioners
Emery County Courthouse
P.O. Box 629
Castle Dale, Utah 84513

RE: Des-Bee-Dove Coal Haul Road Reclamation

Gentlemen:

Energy West Mining Company received notification from the Emery County Road Department on April 4, 1997 regarding possible assumption of the Des-Bee-Dove Coal Haul Road. As the letter stated, Energy West Mining Company notified the Department of Oil, Gas and Mining with a *Notice of Intent* to initiate reclamation of the Des-Bee-Dove mines including the coal haul road within the permit area prior to the permit expiration date of February 5, 2001. As indicated by the Road Department Supervisor, the Des-Bee-Dove Haul Road is currently utilized by public and private entities for a variety of uses including; wildlife viewing, cattle grazing, Castle Valley "Pageanteers" and coalbed methane extraction.

The letter suggested Energy West meet with Emery County Commission to discuss the process for possible assumption of the haul road. Assumption of the road would be based on public involvement and the road meeting applicable county standards. In discussions with Rex Funk, the road department and Johansen & Tuttle have conducted a preliminary review of the current state of the road and noted several areas of concern. Rex indicated that Johansen & Tuttle would follow-up the preliminary review with a engineering estimate detailing the areas of concern and cost analysis associated with bringing the road up to county standards.

Energy West would like to request a meeting with the Commission to discuss the Des-Bee-Dove Coal Haul Road issues at your earliest convenience. Please contact Carl Pollastro or Chuck Semborski at 687-4701 or 4720 respectively.

Thank you for your consideration in this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Dave Lauriski', is written over a horizontal line.

Dave Lauriski
General Manager

Huntington Office:
(801) 687-9821
Fax (801) 687-2695
Purchasing Fax (801) 687-9092

Deer Creek Mine:
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November 21, 1997

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10. June 10, 1997-Letter from DOGM on findings concerning NOV 97-41-3-1



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

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Executive Director
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Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

June 10, 1997

CERTIFIED RETURN RECEIPT REQUESTED
No. P 074 976 873

Chuck Semborski
Environmental Supervisor
Energy West
P. O. Box 310
Huntington, Utah 84528

Re: Findings of Fact, Conclusions, Order and Finalized Assessment for Notice of Violation (NOV) N97-41-3-1, ACT/015/017, PacifiCorp/Energy West, Des Bee Dove Mine, Folder No. 5, Emery County, Utah

Dear Mr. Semborski:

On May 15, 1997, an Informal Hearing and Assessment Conference was held to review the fact of violation and proposed assessment for state violation N97-41-3-1 (the NOV) which was issued to PacifiCorp on February 27, 1997.

Fact of Violation

The NOV was issued "For failure to maintain a primary road to have adequate drainage control. Failure to maintain a road to control or prevent additional contributions of suspended solids to streamflow or runoff outside the permit area."

Regulations violated: R645-301-742.400 (road drainage)
R645-301-752.200 (control or prevent additional contributions of suspended solids outside the permit area)

Notice applies to: "5 culverts on the lower portion of the haul road"

Remedial action: "Maintain the culverts in accordance with designs in the Mining and Reclamation Plan"

During the discussion on the fact of the violation the permittee and representatives of the operator, Energy West Mining Company, presented a chronology of events to substantiate they had not been notified by Texaco that construction of a coalbed methane pipeline in the drainage ditch of the Des Bee Dove haul road was about to commence. After observing flagging along the pipeline route, Energy West began a dialogue with Texaco regarding SMCRA requirements, notified the Division of Oil, Gas and Mining (Division) of the proposed pipeline activity, and submitted an amendment to acknowledge the pipeline construction activity. PacifiCorp/Energy West argued that the blocked culverts were not a result of the operator's "failure to maintain", but were a direct consequence of the pipeline construction activities. The operator further argued that pipeline construction of the nature involved in the NOV is not part of the definition of "Coal Mining and Reclamation Operations" found in R645-100-200 (and consequently was not regulated activity). Further, the operator argued, since the Division had not established what the operator had done to cause the problem, the NOV failed the "reasonable specificity" test contemplated for notices of violation at UCA § 40-10-22(1)(e).

Paul Baker, the issuing inspector for the Division discussed his position on the NOV as established in his May 5, 1997, interoffice memo "Violation N97-41-3-1, PacifiCorp, Des Bee Dove Mine, ACT/015/017 Emery County, Utah. The memo and his verbal presentation supports the operator's chronology of events as presented at the informal hearing, and concludes by asserting that since the roads, culverts and roadside ditches at issue in the NOV are permitted, and subject to regulation, the NOV is supportable.

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:

Findings

1. Location of man-made surface, subsurface features (including pipelines) within, passing through or passing over a permit area is discussed at R645-301-521.122, and said features must be included in the operation plan, and shown on a map.
2. Construction of the oil and gas pipeline system in the disturbed area of the Des Bee Dove mine haul road right of way minimized creation of new surface disturbances attendant to the pipeline.
3. Minimization of surface disturbances is an objective of the Coal Regulatory Program and is within the purview of the land owner, School and Institutional Trust Lands Administration (SITLA).

4. The portion of the pipe line that is subject of the NOV occupies a roadside ditch that is regulated by the Utah Coal Regulatory Program.
5. The roadside ditch disturbed by the pipe line construction did not meet the performance standards of the Utah Coal Regulatory Program at the time of issuance of the NOV.
6. The Des Bee Dove Mine Reclamation Plan (MRP) does not discuss the contingency of leaving the pipeline in place at the conclusion of coal mining.

Conclusions

1. As amended by the operator to show pipelines and other improvements made by Texaco within the Des Bee Dove permit area, the MRP is in compliance with the requirements of R645-301-521.122.
2. Pipelines and other features discussed at R645-301-521.122 are not considered part of coal mining and reclamation operations as defined at R645-100.
3. The operator is responsible for maintenance of the Des Bee Dove haul road and its road side ditches and culverts.

Order

1. NOV N97-41-3-1 is vacated.
2. Within 45 days of receipt of this Order, PacifiCorp must complete maintenance of the roadside ditch and culverts that are the subject of the NOV to assure function as contemplated under the Utah Coal Regulatory Program.
3. Within 60 days of receipt of this Order, the permittee shall submit plans to the Division that discuss the disposition of the roadside ditch containing the pipeline that is subject of the NOV upon reclamation of the Des-Bee Dove haul road.

Assessment Conference

Discussion of the proposed assessment by the operator followed the reasoning developed during the discussion on the fact of the violation, noting that operations resulting in the NOV were not "Coal Mining and Reclamation Operations", and had not been conducted by the permittee or the operator. The permittee also noted that the assessment assigned a degree of fault

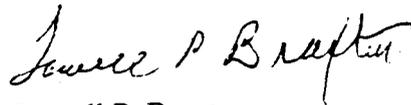
Page 4
ACT/015/017
June 10, 1997

to Texaco, but was assessing the fine against PacifiCorp. The Division re-established the position that the Coal Regulatory Program does not contemplate specialized assessments for violations caused by parties other than the permittee.

Finalized Assessment

Vacation of N97-41-3-1 precludes the need for further discussion of penalty assessment.

Sincerely,



Lowell P. Braxton
Assessment Conference Officer

vb
cc: P. Grubaugh-Littig
J. Helfrich
P. Baker

P:\GROUPS\MINES\WP\DESBEENOV

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

- 11. April 28, 1997-Informal hearing conference notice at DOGM office on said Violation.***



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

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

April 28, 1997

VIA FACSIMILE and U. S. MAIL
(801) 687-2695

Chuck Semborski, Environmental Supervisor
PacifiCorp
P. O. Box 310
Huntington, Utah 84528

Re: Informal Hearing and Assessment Conference on Notice of Violation (NOV)
N97-41-3-1, Des Bee Dove Mines, PacifiCorp, ACT/015/017, Folder #5, Emery County,
Utah

Chuck
Dear Mr. Semborski:

In accordance with a written request from John Kirkham, Stoel Rives dated April 8, 1997, please be advised that the Informal Hearing and Assessment Conference on state violation N97-41-3-1, Des Bee Dove has been established for May 15, 1997, beginning at 10:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will be held in the office of the Division of Oil, Gas and Mining.

Sincerely,

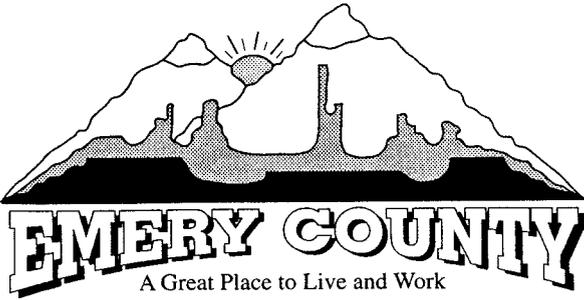
Lowell P. Braxton
Assessment Conference Officer

vb
cc: J. Kirkham, Stoel Rives
M. Wright
P. Baker
PFO

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

- 12. April 4, 1997-Letter from Emery County in reply to newspaper notice of intent to reclaim Des-Bee-Dove haul road.***



Road Department

April 4, 1997

Attn: Chuck Semborski
Energy West Mining Company
P. O. Box 310
Huntington, Utah 84528

Dear Mr. Semborski:

It has recently come to my attention that Energy West may be considering reclamation of the Des Bee Dove coal haul crossover road (to SR-57). Please be advised that there may well be public interest in this roadway and recommend that you contact Emery County Commissioners regarding possible assumption of the road. I feel that a public hearing should be conducted by Commissioners to receive public comment regarding this situation.

I am aware that local citizens often drive the loop from the Des Bee Road to Highway 57 enjoying the spectacular views not only from upper end of the Des Bee Road but the other side as well. The reclamation of your haul road would eliminate this opportunity. I was told that several times this winter citizens enjoyed watching the elk herd collect in that vicinity. Hunting, cattle grazing and annual Castle Valley "Pageanteers" often use your crossover road. I recently drove over it myself and noted serious deficiencies in the road due to neglect. Overall it appeared that rehabilitation efforts could preserve this roadway for continued public use. I noticed that gas well sites are clearly accessing off this road (Texaco). How could these wells be developed or accessed without this road? Are we to suppose that they would have to build their own individual accesses to each site? More roads?

Regardless, I would advise Energy West to direct a letter to commissioners regarding this issue before the ultimate decision is made to entirely reclaim the road. I make no guarantees that Emery County would assume the road but at least the general public would have an opportunity to make their comments to commissioners for consideration.

Be advised that should the county favor receiving the road into its network, our ordinances require that new roads under consideration be brought up to an applicable standard before acceptance. This letter is merely a suggestion and a friendly reminder that a variety of users do occasion to utilize your road.

If I can be of further assistance please call me. Commissioners can be contacted at the County Courthouse, P. O. Box 629, Castle Dale, Utah, 84513 (phone 381-2119). Thank you for receiving my comments.

Sincerely,

Rex Fink,
Road Supervisor

cc Bevan Wilson, Commissioner
Randy Johnson, Commissioner
Kent Petersen, Commissioner
Val Payne, Public Lands

November 21, 1997

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***13. March 27, 1997-Proposed assessment for State Violation
N-97-41-3-1***



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

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

March 27, 1997

CERTIFIED RETURN RECEIPT
P 074 977 726

Chuck Semborski, Environmental Supervisor
PacifiCorp
P.O. Box 310
Huntington, Utah 84528

Re: Proposed Assessment for State Violation No. N-97-41-3-1, PacifiCorp, Des-Bee-Dove Mines, ACT/015/017, Folder #5, Emery County, Utah

Dear Mr. Semborski:

The undersigned has been appointed by the Division of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Paul Baker on February 12, 1997. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately

Page 2
N-96-39-4-1
ACT/015/032
March 27, 1997

following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

Pamela Grubaugh-Littig
Pamela Grubaugh-Littig
Assessment Officer

O:\M&E\PROPLET2.
tt
Enclosure
cc: James Fulton, OSM
Vicki Bailey, DOGM

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

COMPANY/MINE NOV# N-97-41-3-1

PERMIT# ACT/015/017

VIOLATION 1 OF 1

ASSESSMENT DATE 3/17/97

ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 PTS

- A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE EFFECTIVE ON YEAR TO DATE

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____
_____	_____	_____
_____	_____	_____

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent? Failure to main a road to control or prevent additional contribution of suspended solids to streamflow or runoff outside the permit area and failing to maintain the road to have adequate drainage control.
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Five culverts were partially or completely blocked due to the construction of a pipeline next to the haul road. A ditch had been regraded to approximately the configuration in the plan but the inlets could not be found for four culverts on the lower part of the road. The inlet for the fifth culvert was three-fourths blocked with earth material and rock. This violation was issued for failure to maintain the road to have adequate drainage control. Additionally, soils were compacted in the trench excavated for the ditch where the pipeline was laid. These frozen soils could not be properly compacted and will require further reworking when the weather permits. (See inspection report, Attachment 1)

3. What is the extent of actual or potential damage?

RANGE 0-25*

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

It was unlikely that damage due to runoff occurred due to the time of year. Nevertheless, there was a high potential for blockage of the culverts.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

— TOTAL SERIOUSNESS POINTS (A OR B) 20

III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE: OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Reckless

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

On July 31, 1996, Amendment ACT/015/017-96C entitled "15" CMP Culvert Installation at Haul Road to Allow for Drainage of Texaco's Proposed Drilling Access Road" was approved (see Attachment 2). In the approval document, it stated that, "the culvert is not needed for mining purposes, but is necessary to protect and maintain the integrity and function of the road ditch. The culvert is directly associated with an access road to a Texaco methane well." Additionally, "Texaco will install the culvert, since they have been granted the authority to construct the access road by BLM and are the party that precipitated the need for the culvert." This amendment was also coordinated with the BLM and Texaco by field a meeting held on July 22, 1996 with PacifiCorp and the Division. Texaco was aware of the DOGM requirements. (See Attachment 3)

IV. GOOD FAITH MAX -20 PTS. (Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO - EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20*

(Immediately following the issuance of the NOV)

Rapid Compliance -1 to -10

(Permittee used diligence to abate the violation)

Normal Compliance 0

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance Or does the situation require the submission of plans prior to physical activity to achieve compliance?
IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

Rapid Compliance -11 to -20*

(Permittee used diligence to abate the violation)

Normal Compliance -1 to -10*

(Operator complied within the abatement period required)

Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the

NOV or the violated standard or the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Easy ASSIGN GOOD FAITH POINTS 5

PROVIDE AN EXPLANATION OF POINTS

Abatement was performed by Texaco. Paul Baker, Reclamation Specialist assigned to Des-Bee-Dove Mine, inspected the culverts on February 27, 1997 and understood that the abatement work had been completed on February 25, 1997. A few days before this, Texaco had informed PacifiCorp that the abatement work was completed, but the permittee inspected the abatement work and found it unsatisfactory and Texaco redid some of their work.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N97-41-3-1</u>
	I. TOTAL HISTORY POINTS	<u>0</u>
	II. TOTAL SERIOUSNESS POINTS	<u>20</u>
	III. TOTAL NEGLIGENCE POINTS	<u>20</u>
	IV. TOTAL GOOD FAITH POINTS	<u>-5</u>
	TOTAL ASSESSED POINTS	<u>35</u>
	TOTAL ASSESSED FINE	<u>\$500.00</u>

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

14. Feb. 26, 1997-Notice of intent to reclaim Des-Bee-Dove Haul Road

J. BRETT HARVEY
Vice President, Fuels

201 South Main Street
One Utah Center, Suite 2300
Salt Lake City, Utah 84140-0023
(801) 220-4614
FAX (801) 220-4878



February 26, 1997

State of Utah
Division of Oil, Gas & Mining
P.O. Box 145801
1594 West North Temple, Suite 1210
Salt Lake City, UT 84114-5801

**Re: Notice of Intent
Des-Bee-Dove Coal Mine
Permit No. ACT/015/017**

Gentlemen:

On June 1, 1996, the above-captioned permit was renewed for a period of five (5) years and is now subject to further renewal on June 1, 2001. The permit area includes the junction road from S.R. 57 to the mine as well as the sediment pond in an unnamed drainage associated with Grimes Wash.

As you are aware, the Des-Bee-Dove Mine was temporarily idled on February 6, 1987 due to economic circumstances and temporary seals have been installed in the portals. During the 1996 renewal process, we were hopeful that coal would be extracted from the permit area during the permit term. However, since the renewal, no coal has been removed from the mine and it currently remains idle.

The Des-Bee-Dove mining plan utilizes room-and-pillar continuous mining sections. The relatively short remaining mine life and the limited remaining minable reserves discount the economics of applying alternative mining methods. Geologic and geographic constraints also restrict the use of efficient longwall extraction methods in the mine. For several years now the properties associated with the mine have been offered for purchase or development by third parties. No viable proposals have been received.

The properties associated with the Des-Bee-Dove Mine consist of both fee coal and a Federal lease. One Federal lease was allowed to terminate at the end of its readjustment term because it contained no economically minable reserves. Upon careful evaluation and analysis we have concluded that all profitable portions of the coal deposit on both fee and Federal lands have been mined and that the minable reserves that do remain within the area of the Des-Bee-Dove Mine cannot be economically extracted under today's market

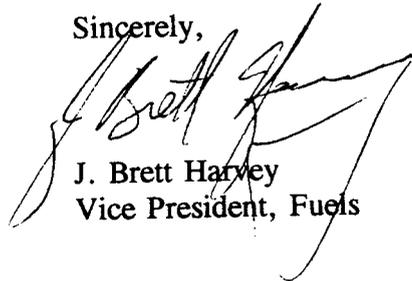
State of Utah
February 26, 1997
Page 2

circumstances. Our long-range planning indicates this condition will exist for the foreseeable future.

We are writing to inform you that, based upon these economic circumstances, it is our intent over the period between now and our next permit renewal to initiate the processes required by law to reclaim the mine, including the portion of the haul road within the permit area. We desire that all interested parties be fully aware of that intent as we begin the various actions over the next few years that will be needed to qualify for a permit renewal limited to reclamation purposes only in 2001.

We welcome any comments or suggestions you might have with respect to this anticipated action. Please contact Blake Webster of my staff at Interwest Mining Company (phone 220-4584) in this regard.

Sincerely,



J. Brett Harvey
Vice President, Fuels

JBH:dr

cc: School and Institutional Trust Lands Administration
Bureau of Land Management
U.S. Forest Service
Emery County Commission
Texaco Exploration and Production Inc.

November 21, 1997

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- 15. Feb. 18, 1997-Letter from Texaco Exploration and Production Inc. concerning meeting with Texaco Rep. Robert Schaffitzel on Texaco and its' involvement in the violation.***



Texaco Exploration and Production Inc

3300 N Butler
Farmington NM 87401

February 18, 1997

Mr. Chuck Semborski
Geology and Environmental Supervisor
Energy West Mining Co.
PO Box 310
Huntington, Utah 84528

RE: DES-BEE-DOVE HAUL ROAD

Dear Mr. Semborski:

With respect to your letter dated December 11, 1996 and your recent meeting with Mr. Robert Schaffitzel in your Salt Lake City office Texaco Exploration and Production Inc. would like to address some of the concerns with this letter. As you know Texaco was granted Easement No. 376 from the State of Utah Trust Lands Administration which overlapped your permitted area. This route was selected to minimize any unnecessary disturbance to the surface in this area.

Texaco has constructed two pipelines in a common ditch within the easement granted to Texaco. Texaco will complete the construction and testing of the pipelines by February 24, 1997 and will then maintain and operate the lines on an as needed basis. Texaco will reconstruct the disturbed easement to the contour which existed prior to the Texaco disturbance. This will be possible with the use of the "As Built" drawings provided by Utah Power and Light Mining Division. Following the re-contouring, Texaco will reseed with the seed mixture you provided in your December 11, 1996 letter.

Texaco will monitor and remediate erosion or settling for the next 18 months, as you have requested in your letter. Texaco will also maintain interim revegetation on an as needed basis until revegetation is determined to be successful by a Texaco representative, with collaboration from an Energy West representative.

Texaco would like to further comment on the recent Notice of Violation No. N 97-41-3-1, which PacifiCorp received from the Division of Oil, Gas and Mining. With this letter Texaco would like to point out to DOGM that pipeline construction was underway when the Notice of Violation was issued. During the construction, damage to culverts and drainage control was necessary. However, the intent was always to repair the incurred damage as part of the construction. As such, repair to these culverts and the drainage control is underway and will be completed upon the receipt of the new culverts. Please understand that Texaco is not providing a copy of this letter to DOGM. Texaco is only providing Energy West with this letter in hopes that it will aid Energy West in your abatement with DOGM.

Thank you for your patience, assistance and cooperation in this matter. If you have any further questions or comments please contact Mr. Robert Schaffitzel at (505) 325-4397 Ext. 27.

Sincerely,

Ted A. Tipton
Operating Unit Manager

RFS/s

November 21, 1997

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16. Mar. 6, 1997-Abatement Notice

VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Pacificorp / Energy West Mining Company

Mailing Address P.O. Box 310, Huntington, UT 84528

State Permit No. ACT/015/017

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., Utah Code Annotated (1953):

Notice of Violation No. N 97-41-3-1 dated Feb 13, 19 97

Cessation Order No. C _____ dated _____, 19 ____

Part 1 of 1 is vacated terminated because required abatement was completed.

Part ____ of ____ is vacated terminated because _____

Part ____ of ____ is vacated terminated because _____

Date of service/mailing 3/6/97 Time of service/mailing 9:00 a.m. p.m.

Charles Somborski
Permittee/Operator representative

Resident Agent
Title

MAILED TO
Signature

Paul B. Faxon
Division of Oil, Gas & Mining

Reclamation Biologist
Title

[Signature]
Signature

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

17. Feb. 13, 1997-Violation issued by DOGM



NO. N 97-41-3-1

To the following Permittee or Operator:

Name PACIFICORP

Mine DES BEE DOVE MINE Surface Underground Other

County EMERY State UTAH Telephone 801-687-4822

Mailing Address PO BOX 1008 HUNTINGTON UT 84528

State Permit No. ACT/015/017

Ownership Category State Federal Fee Mixed

Date of inspection 2/12/97, 19

Time of inspection 10:00 a.m. p.m. to 2:30 a.m. p.m.

Operator Name (other than Permittee) ENERGY WEST MINING COMPANY

Mailing Address ABOVE

notice of violation

Under authority of the Utah Coal Mining and Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated*, 1953, the undersigned authorized representative of the Division of Oil, Gas & Mining has conducted an inspection of above mine on above date and has found violation(s) of the act, regulations or required permit condition(s) listed in attachment(s). This notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that **cessation of mining** is is not expressly or in practical effect required by this notice. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This notice shall remain in effect until it expires as provided on reverse side of this form, or is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas & Mining. Time for abatement may be extended by authorized representative for good cause, if a request is made within a reasonable time before the end of abatement period.

Date of service/ mailing 2/13/97 Time of service/ mailing _____ a.m. p.m.

CHARLES SEMBORSKI
Permittee/Operator representative

RESIDENT AGENT
Title

Signature

PAUL BAKER
Division of Oil, Gas & Mining representative

RECLAMATION BIOLOGIST
Title

Signature

41
Identification Number

SEE REVERSE SIDE

WHITE-DOGM YELLOW-OPERATOR PINK-OSM GOLDENROD-NOV FILE



NOTICE OF VIOLATION NO. N 97-41-3-1

Violation No. 1 of 1

Nature of violation

FAILURE TO MAINTAIN A PRIMARY ROAD TO HAVE ADEQUATE DRAINAGE CONTROL.
FAILURE TO MAINTAIN A ROAD TO CONTROL OR PREVENT ADDITIONAL CONTRIBUTIONS OF
SUSPENDED SOLIDS TO STREAM FLOW OR RUNOFF OUTSIDE THE PERMIT AREA.

Provisions of act, regulations or permit violated

R645-301-742.400

R645-301-752.200

Portion of operation to which notice applies

FIVE CULVERTS ON THE LOWER PORTION OF THE HAUL ROAD.

Remedial action required (including any interim steps)

MAINTAIN THE CULVERTS IN ACCORDANCE WITH DESIGNS IN THE MINING AND RECLAMATION
PLAN.

Abatement time (including interim steps)

FEBRUARY 27, 1997, 8:00 A.M.

November 21, 1997

Chronological order of events that have taken place since a violation was issued by the Division of Oil, Gas and Mining for failure to maintain drainage within the disturbed area of the Des-Bee-Dove Haul Road, Violation 97-41-3-1, issued February 13, 1997, until the present time, wherein the Emery County Road Department has indicated interest in acquiring the road instead of having it reclaimed as was the intent of Energy West Mining Company as indicated in a newspaper advertisement dated February 26, 1997.

18. Feb. 12, 1997-DOGGM field inspection with Energy West



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

gh

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

INSPECTION REPORT

Partial: Complete: X Exploration:
Inspection Date & Time: February 12, 1997, 10:00 AM to 2:30 PM
Date of Last Inspection: December 11, 1996

Mine Name: Des Bee Dove County: Emery Permit Number: ACT/015/017
Permittee and/or Operator's Name: PacifiCorp/Energy West Mining Company.
Business Address Box 1008, Huntington, Utah 84528
Type of Mining Activity: Underground X Surface Prep. Plant Other
State Officials(s): Paul Baker
Company Official(s): Dick Northrup and Bob Willey
Federal Official(s): None
Weather Conditions: Cloudy, 30's, about 6" of snow on the ground
Existing Acreage: Permitted- 2847 Disturbed- 78 Regraded- Seeded- Bonded- 78
Increased/Decreased: Permitted- 0 Disturbed- 0 Regraded- 0 Seeded- 0 Bonded- 0
Status: Exploration/Active/Inactive/ X Temporary Cessation/ Bond Forfeiture
Reclamation (Phase I/Phase II/Final Bond Release/ Liability Year)

REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

Instructions

- Substantiate the elements on this inspection by checking the appropriate performance standard.
 - For complete inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check N/A.
 - For partial inspections check only the elements evaluated.
- Document any noncompliance situation by referencing the NOV issued at the appropriate performance standard listed below.
- Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
- Provide a brief status report for all pending enforcement actions, permit conditions, Division Orders, and amendments.

	EVALUATED	N/A	COMMENTS	NOV/ENF
1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. SIGNS AND MARKERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. TOPSOIL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. HYDROLOGIC BALANCE:				
a. DIVERSIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. SEDIMENT PONDS AND IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. OTHER SEDIMENT CONTROL MEASURES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. WATER MONITORING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. EFFLUENT LIMITATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. EXPLOSIVES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DISPOSAL OF EXCESS SPOIL/FILLS/BENCHES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. NONCOAL WASTE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. SLIDES AND OTHER DAMAGE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. CONTEMPORANEOUS RECLAMATION	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. BACKFILLING AND GRADING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. REVEGETATION	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14. SUBSIDENCE CONTROL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. CESSATION OF OPERATIONS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. ROADS:				
a. CONSTRUCTION/MAINTENANCE/SURFACING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. DRAINAGE CONTROLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17. OTHER TRANSPORTATION FACILITIES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. SUPPORT FACILITIES/UTILITY INSTALLATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS CHECK (4th Quarter-April, May, June)_(date)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. AIR QUALITY PERMIT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. BONDING & INSURANCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

INSPECTION REPORT

(Continuation sheet)

Page 2 of 3

PERMIT NUMBER: ACT/015/017

DATE OF INSPECTION: February 12, 1997

(Comments are Numbered to Correspond with Topics Listed Above)

Because of the snow, we did not go to the sediment pond and topsoil stockpile. Looking at these from the road, I saw no problems. Also, it was very difficult to see all of the drainage control structures because of the snow.

1. Permits/Change/Transfer/Renewal/Sale

On ~~December~~ ^{JANUARY} 9, 1996, the Division approved an amendment to designate Charles Semborski as resident agent.

On December 11, 1996, the Division received an amendment showing installation of natural gas and water lines along the lower part of the haul road. This was approved on December 24, 1996. In association with this, another amendment was approved January 15, 1997, which allows for installation of a culvert parallel to the road in the ditch.

2. Signs and Markers

A few of the perimeter marker signs along the north side of the lower portion of the haul road are missing and need to be replaced.

4. Hydrologic Balance

a. Diversions

Some earthen material has slumped into the ditch on the inslope of the road at the lower part of the mine, and this needs to be cleaned. It appears this is a recurring problem.

On the pad by the Little Dove Mine portals, there is a berm that was breached so the operator could retrieve a portion of a conveyor. This berm needs to be restored and reseeded.

9. Protection of Fish, Wildlife and Related Environmental Values

Two golden eagles were in the cliffs above the mine, and they were vocalizing. I suspect they may be establishing their territory for the nesting season.

16. Roads

b. Drainage Control

As noted in the report for the December inspection, Texaco has been putting in natural gas and water lines in the ditch next to the lower part of the haul road. The ditch has now been regraded to approximately the configuration shown in the plan, but I could not find the inlets for four culverts on the lower part of the road, and the inlet to a fifth culvert was about 3/4 blocked with earth material and a rock. Violation N97-41-3-1 is being issued for failure to maintain a road to control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area and for failing to maintain the road to have adequate drainage control.

Although the ditch on the side of the road appears to basically conform to designs in the plan, I am concerned about the reconstruction procedures that were used. Based on photographs I saw of the construction sequence and my conversation with Mr. Willey and Mr. Northrup, the ditch was rebuilt as follows:

1. A trench was excavated in the ditch, and gas and water lines were put in the trench.

2. The contractor installing the lines used a trackhoe to sift soil into the trench. A few inches of snow was on the ground and in the trench when this was done, and the soil was apparently frozen. About two feet of this fine material was placed on the lines, then it was compacted with a small sheepfoot roller.

INSPECTION REPORT

(Continuation sheet)

Page 3 of 3

3. From the photographs, it appeared the contractor finished filling the trench with rocks about six inches in diameter and larger.
4. Finally, finer material was spread over the top and graded to approximately the ditch configuration shown in the plan.

I believe the soil will settle as it thaws this spring because it is impossible to properly compact frozen soil. I also believe the fine material on the surface will pipe into the rocks below. Assuming these happen, it will be necessary to rework the ditch, probably sometime within the next year.

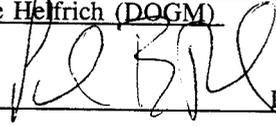
Even though the soil will probably settle and pipe and will probably need to be reworked, the area should be planted with the interim seed mix as soon as possible. The ditch could become the subject of further enforcement action if it is not properly maintained.

Not far above the sediment pond, there is a cut where the road loops north toward the mine. The inlet of the culvert on the north side of the road in this area needs to be cleaned.

Copy of this Report:

Mailed to: James Fulton (OSM), Chuck Semborski (PacifiCorp)

Given to: Joe Helfrich (DOGM)

Inspector's Signature:  Paul B. Baker #41 Date: February 21, 1997



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
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Executive Director
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801-359-3940 (Fax)
801-538-5319 (TDD)

INSPECTION REPORT

Partial: Complete: Exploration:
Inspection Date & Time: December 11, 1996, 11:00 AM to 3:00 PM
Date of Last Inspection: August 28, 1996

gjh

Mine Name: Des Bee Dove County: Emery Permit Number: ACT/015/017
Permittee and/or Operator's Name: PacifiCorp/Energy West Mining Company.
Business Address Box 1008, Huntington, Utah 84528
Type of Mining Activity: Underground Surface Prep. Plant Other
State Official(s): Paul Baker
Company Official(s): Dick Northrup and Mike Dennis
Federal Official(s): None
Weather Conditions: Snow showers, 20's, mostly cloudy, up to about 4" of snow on the ground at the mine
Existing Acreage: Permitted- 2847 Disturbed- 78 Regraded- 0 Seeded- 0 Bonded- 78
Increased/Decreased: Permitted- 0 Disturbed- 0 Regraded- 0 Seeded- 0 Bonded- 0
Status: Exploration/ Active/ Inactive/ Temporary Cessation/ Bond Forfeiture
Reclamation (Phase I/ Phase II/ Final Bond Release/ Liability Year)

REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

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2. SIGNS AND MARKERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. TOPSOIL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. HYDROLOGIC BALANCE:				
a. DIVERSIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. SEDIMENT PONDS AND IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. OTHER SEDIMENT CONTROL MEASURES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. WATER MONITORING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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16. ROADS:				
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b. DRAINAGE CONTROLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. OTHER TRANSPORTATION FACILITIES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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20. AIR QUALITY PERMIT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. BONDING & INSURANCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

INSPECTION REPORT

Page 2 of 2

(Continuation sheet)

PERMIT NUMBER: ACT/015/017

DATE OF INSPECTION: December 11, 1996

(Comments are Numbered to Correspond with Topics Listed Above)

1. Permits, Change, Transfer, Renewal, Sale

At the end of the inspection Mr. Northrup gave me an amendment discussing Texaco's activities at the site.

Texaco is laying a pipeline in the ditch on the north side of the lower part of the haul road. I was notified December 5, 1996, of Texaco's activities. Mr. Northrup had learned of them a few days earlier and discussed the situation with the former Division inspector Bill Malencik. On December 6, 1996, Mr. Northrup and other representatives from PacifiCorp met with Ron Worth of Texaco and me to discuss the situation and regulatory implications and requirements.

The lower portion of the Des Bee Dove haul road is on State land, and the Division of State Lands and Forestry issued a right of way for the road in about the late 1970's. According to Mr. Worth, the Division of State Lands and Forestry issued a right of way for Texaco to build a pipeline in this same area in 1989. He said Texaco was instructed to build the pipeline in the ditch on the north side of the haul road in order to disturb as little land as possible.

3. Topsoil

In the area of the Texaco pipeline, the soil was bladed to the side before Texaco started to dig the trench. PacifiCorp did not learn of the pipeline until this blading had been done, and by that time, it was too late to salvage topsoil. The subsoil appears to be sandy material that will probably not be difficult to reclaim.

The area near the sediment pond and soil pile was very muddy, so I did not inspect the subsoil pile. However, Mr. Dennis told me he had recently checked the area.

4. Hydrologic Balance

e. Effluent Limitations

During the period September 11-18, 1996, the mine received 3.46 inches of rain, and the sediment pond discharged. The effluent limitations were exceeded for total iron and suspended solids. Total iron was 9.2 mg/L, and the limit is 2.0 mg/L. Suspended solids were 1.2 mg/L, and the limit is 0.1 mg/L. The permittee notified the Division and the Division of Water Quality as required. This is apparently only the second time the pond has discharged.

16. Roads

b. Drainage Control

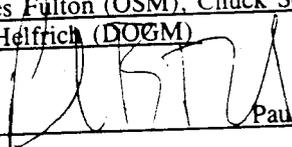
The Texaco pipeline is being put in the ditch on the north side of the haul road; therefore, at the time of the inspection, the ditch did not comply with designs in the plan. However, since the work was being done without PacifiCorp's prior approval and since environmental damage seemed unlikely, I did not take enforcement action. In the meeting on December 6, we discussed the designs for the road ditch and that it would need to comply with what is shown in the plan. We also discussed seeding and compacting the area to reduce erosion. Texaco was later given information from the plan. I believe I made it clear that, although Texaco disturbed the ditch, PacifiCorp is ultimately responsible for its maintenance no matter what any outside party does. Mr. Worth indicated Texaco should be completed by about December 20, 1996.

On December 10, 1996, I telephoned Mr. Worth and told him I thought Texaco should put some straw bales or silt fences in parts of the ditch to control sediment from potential runoff. Some silt fences had been installed by the time of the inspection, but the bottoms of them were anchored with rocks rather than being buried. I told a representative from Texaco I thought they needed to be buried to better catch any runoff, and he agreed to have it done.

Copy of this Report:

Mailed to: James Fulton (OSM), Chuck Semborski (PacifiCorp)

Given to: Joe Helfrich (DOGM)

Inspector's Signature:  Paul B. Baker #41 Date: December 19, 1996