



1407 West North Temple
P.O. Box 899
Salt Lake City, Utah 84110

June 29, 1988

Mr. Lowell Braxton
Administrator
Division of Oil, Gas and Mining
State of Utah
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Dear Mr. Braxton:

Attached is the Notice of Violation issued to the Deer Creek Mine from the Office of Surface Mining.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Smaldone".

David Smaldone
Director of Permitting,
Compliance & Services
Mining Division

DS:bb:5997
Enclosure

RECEIVED
JUN 29 1988

DIVISION OF
OIL, GAS & MINING

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
NOTICE OF VIOLATION
Permanent Regulatory Procedures

1. Notice of Violation Number
88-2-116-1

TV **1**

2. Name Permittee
 No Permit

Originating Office Address

UAA POWER & LIGHT CO.

USDI/OSMRE

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

**Albuquerque Field Office
625 Silver Ave S.W.
Suite 310**

4. Name of Mine Surface Other (Specify) Underground

Albug, NM 87102

DEER CREEK MINE

5. Telephone Number **(801) 687-9821** 6. County **EMERY** State **UTAH**

Telephone Number **(505) 766-1486**

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

9. Date of Inspection

- N/A -

6-22-88

8. Mailing Address

10. Time of Inspection

- N/A -

From **11:00** ^{a.m.} _{p.m.} To **12:00** ^{a.m.} _{p.m.}

11. State Permit Number **ACT 015 018** 12. NPDES Number **UT 0023604** 13. MSHA ID Number **42-00121** 14. OSM Mine Number **371**

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 violation(s) of the Act, the regulations or required permit condition(s) listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

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

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS NOTICE 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 notice (30 CFR 843.15).

This Notice 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. The time for correction may be extended by an authorized representative for good cause. If you need additional time to correct the violation(s), please contact the field office named above.

IMPORTANT—Please Read Information on the Back of this Page

15. Print Name of Person Served DAVID S MALDONE	18. Date of Service 6-22-88
16. Print Title of Person Served Director of Permitting, Compliance Services	19. Print Name of Authorized Representative HENRY P. AUSTIN
17. Signature of Person Served * refused to sign on 6/22/88	20. Signature of Authorized Representative ID Number Henry P. Austin 116

IMPORTANT—PLEASE READ CAREFULLY
Permanent Regulatory Procedures

1. **Formal Review and Temporary Relief.** You may apply for review of this Notice by submitting an application for review, within 30 days of receipt of this Notice by you or your agent to:

Hearings Division
Office of Hearings and Appeals
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, Virginia 22203
(703) 557-9200

If you apply for a formal review, you may request temporary relief from complying with this Notice. Your request must be filed with the Hearings Division at the above address prior to a decision in the formal review. The procedures for obtaining a formal review or temporary relief are contained in Title 43 Code of Federal Regulations Section 4.

2. **Informal Public Hearing.** A Notice of Violation which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing has been held within that time. On the reverse of this page, the authorized representative has made a finding as to whether or not this Notice of Violation requires cessation of mining. If you are entitled to an informal review please notify the OSM office indicated on the reverse of this page.

No hearing will be held where the violation in question has been abated, or the hearing has been waived. Your right to an informal review will be deemed waived unless you request an informal review within 30 days after service of this Notice.

OSM may conduct the hearing later than the 30 day period with the consent of the person to whom this Notice was issued. You will be deemed to have consented to an extension of the time for holding the hearing if your request is received on or after the 21st day after the service of this Notice.

3. **Penalties.** You may submit information in writing pertaining to the violation(s) covered by this Notice within 10 days of the date that it is served on you or your agent. This information will be considered in determining the amount of penalty. You may also submit a request that the Director waive the use of the formula contained in 30 CFR Part 845 in determining the civil penalty for the violations cited in this Notice. Your request must be submitted to the Director within 10 days of service of the Notice and must include your reasons for requesting the waiver. A waiver will be granted only if the Director determines that a waiver will further abatement of violations of the Act. If you wish to submit this information, you should send it to U.S. Department of the Interior, Office of Surface Mining, Assessment Office, Washington, D.C. 20240.

For each violation covered by this Notice, a penalty of up to \$5,000 may be assessed for each day during which that violation continues.

Pursuant to 30 CFR 845.13(b) the amount of the penalty may be reduced significantly if you abate the violations in the shortest possible time using extraordinary measures. If you believe you have abated one or more of the violations in the shortest possible time using extraordinary measures, contact the inspector that issued this Notice and ask for an abatement inspection.

If you fail to correct any of the violations within the time set for abatement (unless extended by the inspector) or for meeting any interim step a failure to abate cessation order will be issued by the inspector. This order will require you to cease surface coal mining operations or the portion relevant to the violations and you must be assessed a penalty of at least \$750 per day each day that the violation continues up to a maximum of thirty days.

4. **Effect on Permit.** In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or permit conditions exists, and that the violations were caused by unwarranted failure of the permittee or were willful violations, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT Title 43 Code of Federal Regulations Section 4, Title 30 Code of Federal Regulations Chapter VII, and Title V of the Act, or CONTACT the nearest OSM Office for a copy of the "Rights of Operators and Permittees" manual.

NOTICE OF VIOLATION (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

Failure to design the surface water runoff diversion system at the Deer Creek Underground Mine.

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

UCA 40-10-1 ; UMC 817.43 (c) (f)

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES

All of the surface water runoff diversion channels and the culvert along C-1 conveyor support #33

CORRECTIVE ACTION REQUIRED (Including Interim Steps, if Any)

Submit a complete and accurate design package for the portion of the operation identified above to the Utah Division of Oil, Gas & Mining (Regulatory Authority), SALT LAKE CITY, UT, Main Office.

TIME FOR ABATEMENT (Including Time for Interim Steps, if Any)

July 25, 1988 at 8:00 A.M.

NOTICE OF ELIGIBILITY
FOR AN
INDIVIDUAL CIVIL PENALTY ASSESSMENT

Utah Power & Light Company
Corporate Permittee

ACT 015 018
Permit Number

The Office of Surface Mining (OSM), pursuant to Section 518(f) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1268(f), may assess an individual civil penalty against a director, officer, or agent of a corporate permittee who has violated a condition of his permit or fails or refuses to comply with a Notice of Violation or 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)]

As an official of the above-referenced corporate permittee, you are hereby notified that the corporation has been issued Notice of Violation(s) No. 88-2-116-1 and/or ~~Cessation Order(s)~~ No. -N/A-, copies of which are attached. You will be eligible for an assessment of an individual civil penalty unless you cause the corporate permittee to comply with the requirements of the attached enforcement action(s). Assessment of an individual civil penalty does not affect OSMRE's authority to assess civil penalties or take other enforcement actions against the corporate permittee as well.

David Smaldone
Corporate Official
Director of Permitting,
Compliance Services
Title

* Refused to sign
ON 6/22/88 HPT
Signature

6-22-88
Date of Service

HENRY P. Austin
Authorized Representative

116
Identification Number

Henry P. Austin
Signature

(505) 766-1486
Telephone No.