

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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IN THE MATTER OF NOTICE OF VIOLATION N90-35-4-1, DEER CREEK MINE, ACT/015/018, EMERY COUNTY, UTAH	: : :	RESPONSE TO REQUEST FOR INFORMAL REVIEW OF FACT OF VIOLATION  CAUSE NO. ACT/015/018
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REQUEST FOR REVIEW

During a meeting on Tuesday, January 29, 1991, Denise Drago, attorney for Pacificorp, requested that I reconsider the Fact of Violation concerning the above-referenced violation. To summarize, the vacation of the N90-35-4-1 was requested because

1. Pacificorp Electric Operations received permission for the excess discharge from the Utah Bureau of Water Pollution Control in the form of an approved bypass to the existing UPDES permit,
2. Pacificorp Electric Operations received permission from the Utah Division of Water Rights for the stream channel alteration and culvert installation prior to construction, and
3. The permitting required by the Division in N90-35-4-1 is unnecessary because it duplicates permits already issued by other agencies, as noted above.

FINDINGS AND CONCLUSIONS

Based on the discussions during the informal review of fact of violation, the documents presented at that time, and the information in the Division files,

1. Alteration of a stream channel, construction related to that stream channel alteration, and any impacts of discharge, when resulting from or associated with surface coal mining and reclamation operations, are surface coal mining and reclamation activities, as defined in Utah Code Ann. § 40-10-4(18) and Utah Admin. R. 614-100-200.
2. The Utah Coal Mining and Reclamation Act and implementing rules require permitting and approval of surface coal mining and reclamation activities prior to construction, in accordance with Utah Code Ann. §§ 40-10-9(1) and 40-10-10(2)(b), and Utah Admin. R. 614-301-731.610.

3. Surface disturbance related to the conduct of surface coal mining and reclamation operation must be delineated on maps as indicated in Utah Admin. R.R. 614-301-521.162 and 614-301-521.132.
4. Conduct of surface coal mining and reclamation operations shall be conducted in accordance with Utah Admin. R. 614-301-742.211.
5. The requirements of other agencies directing an operator to obtain permits and approvals for discharge and stream channel alterations, do not diminish the requirement that the operator receive prior approval from the Division of Oil, Gas and Mining for the disturbance related to such discharge and stream channel alteration under the Utah Coal Mining and Reclamation Act and implementing rules for surface coal mining and reclamation activities.

DETERMINATION

Therefore, the Director upholds the fact of violation in N90-35-04-01.

DETERMINED AND ISSUED this 11th day of February, 1991.

STATE OF UTAH  
Division of Oil, Gas and Mining

  
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Dianne R. Nielson  
Director

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing RESPONSE TO REQUEST FOR INFORMAL REVIEW OF FACT OF VIOLATION for Cause No. ACT/015/018 to be mailed by first class mail, postage prepaid, the 11th day of February, 1991 to:

J. Blake Webster  
Pacificorp Electric Operations  
Fuel Resources  
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Office of Surface Mining  
Reclamation and Enforcement  
Albuquerque Field Office  
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625 Silver Avenue, SW  
Albuquerque, New Mexico 87102

  
Lynda S. Jenson

Dated this 11th day of February, 1991

orig mine file  
ce per service <sup>sign service</sup> and send  
P. Gumbough - Little  
S. White  
L. Braxton  
J. Helfrich  
BRW  
Thanks.  
Dianne