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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

*FILE FOLDER #5*

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May 23, 1991

TO: Coal File

FROM: Joseph C. Helfrich, Regulatory Program Coordinator

RE: Appeal of NOV #N90-35-4-1, PacifiCorp Electric Operations, Deer Creek Mine, ACT/015/018, Folder #5, Emery County, Utah

On Tuesday, May 21, 1991, I received a conference call from Alan Bauckman, Legal Counsel for the Division, and Ms. Denise Dragoo, Legal Counsel for PacifiCorp Electric Operations, concerning the disposition of the civil penalty with regard to information presented by the petitioner (PacifiCorp Electric Operation) and proceedings of the Board Hearing of March 29, 1991. With respect to the assessed points and corresponding civil penalty, I provide the following:

|                                | <u>Proposed Assessment</u> | <u>Final Assessment</u> | <u>Board Order Assessment</u> |
|--------------------------------|----------------------------|-------------------------|-------------------------------|
| 1) History/Previous Violations | <u>0</u>                   | <u>0</u>                | <u>0</u>                      |
| 2) Seriousness                 |                            |                         |                               |
| Probability of Occurrence      | <u>20</u>                  | <u>20</u>               | <u>20</u>                     |
| Extent of Damage               | <u>12</u>                  | <u>12</u>               | <u>12</u>                     |
| 3) Negligence                  | <u>10</u>                  | <u>10</u>               | <u>0</u>                      |
| 4) Good Faith                  | <u>-0</u>                  | <u>-0</u>               | <u>-0</u>                     |
| Total Points                   | <u>42</u>                  | <u>42</u>               | <u>32</u>                     |
| <b>TOTAL ASSESSED FINE</b>     |                            | <u><b>\$680.00</b></u>  | <u><b>\$440.00</b></u>        |

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The accumulative points for the proposed, as well as the final, were assessed at 42 points. Proceedings from the Board Hearing of March 29, 1991, revealed that no negligence occurred as a result of the violation, thus reducing the total to 32. The corresponding civil penalty would be reduced from \$680 to \$440. With respect to the extent of damage, proposed and finalized at 12 points, the record clearly indicates that damage did occur as a result of the violation, thus the 12 points will remain. With respect to Good Faith, procedurally the petitioner is ineligible for good faith as extensions were requested on January 7, 1991 and January 31, 1991, respectively. No abatement measures were initiated as a result of either extension, thus no good faith points could be considered. This is an overall reduction of \$240.

jbe  
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