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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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801-538-5340

November 20, 1991

CERTIFIED RETURN RECEIPT
P 074 979 157

Mr. Blake Webster, Permitting Administrator
PacifiCorp Electric Operations
Fuel Resources
One Utah Center; Suite 2100
210 South Main
Salt Lake City, Utah 84140-0021

Dear Mr. Webster:

Re: Proposed Assessment for State Violation No. N91-7-1-1 (N91-42-1-1), PacifiCorp Electric Operations, Deer Creek Mine, ACT/015/018, Folder #5, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Ken Wyatt on October 30, 1991. Rule R614-401-600 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 R614-401-700, 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 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,

Joseph C. Helfrich
Joseph C. Helfrich
Assessment Officer

jbe
Enclosure

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

COMPANY/MINE PacifiCorp Electric Operations/Deer Creek Mine NOV #N91-7-1-1*

PERMIT # ACT/015/018 VIOLATION 1 OF 1

ASSESSMENT DATE 11/20/91 ASSESSMENT OFFICER Joseph C. Helfrich

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 11/20/91 EFFECTIVE ONE YEAR TO DATE 11/20/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-32-6-1	05/05/91	1

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 1

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 Assessment Officer 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

1. What is the event which the violated standard was designed to prevent?
Water Pollution and Environmental Harm

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Unlikely

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 7

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the site that referenced the location of the violation is in the Mancos Shale formation which is a highly erodible geologic strata with high salt contents which naturally degrades water as it passes over and through this formation.

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 5

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the degree of damage would be minimal since the area is located in the Mancos Shale which naturally degrades water quality. Very little additional damage would have occurred if it had not been discovered by a DOGM inspector. A loss of salvage topsoil material could occur since the embankments are where the topsoil was placed during the operation of this site.

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) 12

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 Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the operator indicated that the silt fence structure was inspected on September 20, 1991, during a refuse disposal area quarterly inspection done in-house. The operator knew that a complete inspection was being conducted and had a one-day notice before we actually inspected this portion of the operation. Some new fabric material was observed installed near the failed area. The operator should have realized that the fences integrity is required and should have corrected the damaged areas.

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? ____ **ASSIGN GOOD FAITH POINTS** __0__

PROVIDE AN EXPLANATION OF POINTS

The violation has not been abated to date.

V. ASSESSMENT SUMMARY FOR N91-7-1-1*

I.	TOTAL HISTORY POINTS	1
II.	TOTAL SERIOUSNESS POINTS	12
III.	TOTAL NEGLIGENCE POINTS	8
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	21
	TOTAL ASSESSED FINE	$ 220.00

* This violation was originally written as #N91-42-1-1 but has been changed to N91-7-1-1.

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