



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Salt Lake City, Utah 84180-1203
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March 7, 1991

CERTIFIED RETURN RECEIPT REQUESTED
P 074 979 027

Mr. Blake Webster
PacifiCorp Electric Operations
Fuel Resources
P.O. Box 26128
Salt Lake City, Utah 84126-0218

Dear Mr. Webster:

Re: Finalized Assessment for State Violation #N90-35-4-1,
PacifiCorp Electric Operations, Deer Creek Mine,
ACT/015/018, Folder #5, Emery County, Utah

The civil penalty for the above-referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalty with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,

Tom Mitchell
Assessment Conference Officer

Enclosure

cc: John C. Kathmann, OSM, AFO

an equal opportunity employer

Denise Dragoo, Attny

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

COMPANY/MINE PacifiCorp Electric/Deer Creek NOV #N90-35-4-1

PERMIT # ACT/015/018 VIOLATION 1 of 1

Assessment Date 3/6/91 Assessment Officer Tom Mitchell

Nature of
Violation: Unauthorized mining activities within 100 feet of a
perennial stream.

Date of Termination: Violation has not been abated as of this
date.

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

NARRATIVE:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Although unauthorized mining activities may hinder an inspector from a permitting perspective, a number of events (including but not limited to: activities outside the approved permit area, damage to property, environmental harm, water pollution, and/or loss of reclamation/revegetation potential) did occur. Thus 20 points for occurrence remain. With respect to the extent of damage as a result of these events occurring, the assignment of 12 points at the midrange remains, as damage did occur off the disturbed as well as the permit area. One of the areas referenced in the unauthorized activity was located within the

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3/6/91

permit boundary and the inspector's statement revealed that some channel altering activities occurred as a result of the installation of the culvert and flume. No topsoil was salvaged, only a small plunge pool was constructed for sediment control and the affected area had not been subject to any seeding or reclamation activities. With respect to the category of ordinary negligence, 10 of the maximum of 30 points remain. It is reasonable to assume that all mining activities within the mine plan and adjacent area associated with the production of coal are subject to the permitting requirements and performance standards of the coal regulatory program. In as much as the violation has not been terminated to date, eligibility for good faith points can not be addressed at this time.

jbe
ACT/015/018