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UTAH NATURAL RESOURCES
Oil, Gas & Mining

3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

John Pyle

NO. N 92-7-2-1

notice of violation

To the following Permittee or Operator:

Name Pacificorp

Mine Deer Creek Mine Surface Underground Other

County Emery State Utah Telephone (801) 653-2312

Mailing Address P.O. Box 1005, Huntington, Utah 84528

State Permit No. ACT/015/018

Ownership Category State Federal Fee Mixed

Date of inspection May 19-20, 1992, 19 92

Time of inspection 5/19 8:15 a.m. p.m. to 4:30 pm a.m. p.m.

Operator Name (other than Permittee) Same Energy West Mining Company

Mailing Address Same P.O. Box 310 Huntington Utah 84528

Under authority of the Utah Coal Mining and Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated*, 1953, the undersigned authorized representative of the Division of Oil, Gas & Mining has conducted an inspection of above mine on above date and has found violation(s) of the act, regulations or required permit condition(s) listed in attachment(s). This notice constitutes a separate Notice of Violation for each violation listed.

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

The undersigned representative finds that **cessation of mining is** is not expressly or in practical effect required by this notice. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This notice shall remain in effect until it expires as provided on reverse side of this form, or is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas & Mining. Time for abatement may be extended by authorized representative for good cause, if a request is made within a reasonable time before the end of abatement period.

Date of service/ mailing May 20, 1992 Time of service/ mailing 2:30 a.m. p.m.

Val Payne
Permittee/Operator representative

Senior Environmental Engineer
Title

Val Payne
Signature

Ken Wyatt
Division of Oil, Gas & Mining representative

Reclamation Specialist
Title

Ken Wyatt
Signature

7
Identification Number

SEE REVERSE SIDE

WHITE-DOGM YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE



NOTICE OF VIOLATION NO. N 92-7-2-1

Violation No. 1 of 1

Nature of violation

Failure to design, construct and maintain sediment control measures.

CODE D

Provisions of act, regulations or permit violated

R 645-301-742

Portion of operation to which notice applies

Sediment control measures consisting of silt fence/sediment traps located along the Mine access Road and along the Conveyor belt line near IU 110-111.

Remedial action required (including any interim steps)

Maintain or re-construct these sediment control measures in accordance with the approved design.

Abatement time (Including interim steps)

2 weeks; no later than 5:00 pm on Wednesday June 3, 1992.

EVENT VIOLATIONS INSPECTORS STATEMENT

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.
 - a. Activity outside the approved permit area.
 - b. Injury to the public (public safety).
 - c. Damage to property.
 - d. Conducting activities without appropriate approvals.
 - e. Environmental harm.
 - f. Water pollution.
 - g. Loss of reclamation/revegetation potential.
 - h. Reduced establishment of a permanent, diverse and effective vegetative cover.
 - i. Other.
- F. The regulations were designed to prevent water pollution.

2. Has the event occurred? Yes X No

If yes, describe it. If no, what would cause it to occur and what is the probability of occurrence of the event? (None, Unlikely, Likely, Occurred).

The event, water pollution has occurred to a slight degree. Precipitation was occurring the evening before these facilities were inspected. Several miles away at the Bear Canyon Mine, .19 inches of rain was received on the evening of May 19, 1992. A similar amount was probably received at the Deer Creek Mine, plus it rained again during the inspection on May 20, 1992.

Numerous silt fence/sediment trap structures were observed in disrepair. Water had channeled around the ends of one. At least two were observed where water had piped under the silt fence structure, thereby bypassing treatment. A couple of other structures had holes and rips in the silt fence material allowing water to escape prior to complete treatment.

3. Would and/or does damage extend off of the disturbed and/or permit area?

<u>DISTURBED AREA</u>			<u>PERMIT AREA</u>		
Would:	Yes <u>X</u>	No <u> </u>	Would:	Yes <u>X</u>	No <u> </u>
Does:	Yes <u>X</u>	No <u> </u>	Does:	Yes <u>X</u>	No <u> </u>

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Event Violations

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

If this violation had not been discovered during this inspection it may have continued for some time. During the inspection it was raining and the effectiveness of the silt fence/sediment traps could readily be assessed. Several areas were observed whereby water was piping under the structures and this would be difficult to detect in dry conditions but during the storm event it was very obvious that the structures were in poor condition.

Potential damage off the disturbed area. Yes X No ___

Potential damage off the permit area. Yes X No ___

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss.

- () Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.
- (X) Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.
- () If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what if anything, the operator did to correct it prior to being cited.
- () Was the operator in violation of a specific permit condition?
- (X) Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? NO

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- (X) Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken. **Not at this exact site but at other locations at this Mine.**

Explanation

This situation is probably the result of lack of reasonable care. According to Val Payne of Pacificorp, personnel at the mine employed by Energy West Mining Company are supposed to conduct their own inspections to find problems before DOGM inspectors. I don't think that the Energy West operator's take this duty very seriously, therefore the violation was not discovered by the mine personnel and resulted in a lack of reasonable care which resulted in issuance of this NOV.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or Co, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

The NOV was written on May 20, 1992, and allowed abatement within 2 weeks, no later than June 3, 1992. To date no information is available to assess good faith points.

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.

The operator usually has adequate supplies and manpower to abate violations expeditiously. I don't know if the operator has additional silt fence material onsite or not. Repairs to most of the structures does not require replacing the silt fence fabric but rather strengthen the soils and material that the fences are anchored into.

3. Was the submission of plans prior to physical activity required by this NOV? Yes No
If Yes, explain.

May 22, 1992
DATE

Ken Wyatt #7
AUTHORIZED REPRESENTATIVE