

BEFORE THE DIVISION OF OIL GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF THE APPEAL	:	FINDINGS, CONCLUSIONS
OF FACT OF VIOLATION N95-35-1-1,	:	AND ORDER
PACIFICORP, DEER CREEK MINE,	:	
EMERY COUNTY, UTAH	:	CAUSE NO. ACT/015/018

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On August 15, 1995, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to PacifiCorp for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding: James W. Carter, Director

Petitioner: J. Blake Webster
Val E. Payne
John S. Kirkham, Esq.

Division: Lowell Braxton
Joe Helfrich
Susan White

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.
2. Violation N95-35-1-1 was written on July 7, 1995, for "Failure to obtain a permit prior to conducting coal mining activities." The activity cited was the re-opening

of a reclaimed access road to facilitate installation of a power line to PacifiCorp's proposed Rilda Canyon surface facilities.

3. The construction activities were performed by a contractor for Utah Power and Light Company (UP&L), not a contractor of the Permittee, under authority of a special use permit issued to UP&L by the U.S. Forest Service, the federal manager of the lands involved.

4. PacifiCorp had previously sought approval to re-open the road as part of its permit application for the Rilda Canyon surface facilities. That approval, including approval to re-open the road, was granted on July 31, 1995, after performance of the activities at issue.

CONCLUSIONS OF LAW

1. Re-opening of the road in question for access to the Rilda Canyon surface facilities by PacifiCorp or its contractors in advance of permit approval would constitute a violation of the Utah program.

2. Because the activities cited were performed by an entity not in privity with or under the operational control of the permittee, PacifiCorp did not "conduct coal mining activities" prior to obtaining a permit to do so.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N95-35-1-1 is vacated.
2. The Petitioner may appeal the determination of fact of violation to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this

Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 21st day of August, 1995.



James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

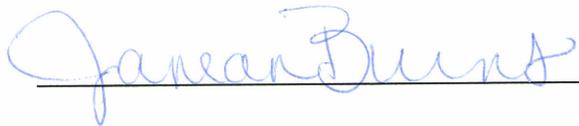
CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS, AND ORDER for Cause No. ACT/015/018 to be mailed by first-class mail, postage prepaid, on the 22 day of August, 1995, to the following:

John S. Kirkham, Esq.
Stoel, Rives, Boley, Jones and Grey
One Utah Center, Suite 1100
201 South Main
Salt Lake City, Utah 84111-4904

Val E. Payne, Sr. Environmental Engineer
PacifiCorp
P.O. Box 310
Huntington, Utah 84528

J. Blake Webster
Interwest Mining
One Utah Center, Suite 2000
201 South Main
Salt Lake City, Utah 84140-0020





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

MinFile

August 9, 1995

CERTIFIED RETURN RECEIPT REQUESTED
No. P 074 977 576

Val Payne
Senior Environmental Engineer
Energy West Mining Company
P. O. Box 310
Huntington, Utah 84528

Re: Informal Hearing for State Violation N95-35-1-1, PacifiCorp, Deer Creek Mine,
ACT/015/018, Emery County, Utah

Dear Mr. Payne:

In accordance with a written request from you dated August 4, 1995, please be advised that the Informal Hearing on state violation N95-35-1-1, Deer Creek Mine has been established for Tuesday, August 15, 1995, beginning at 1:30 p.m.

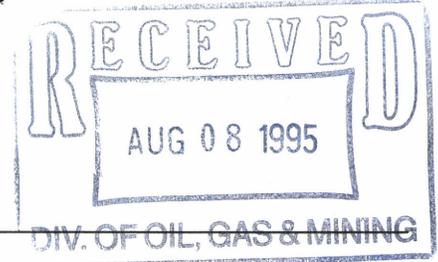
Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will be held at the office of the Division of Oil, Gas and Mining.

Very truly yours,

James W. Carter
Director

vb
cc: L. Braxton
J. Helfrich
PFO



August 4, 1995

cc JWC
FPB
V. Bailey
P&L
orig. file
8/8/95
BJ

Mr. James W. Carter
Director
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Request for Informal Conference, State Notice of
Violation No. N95-35-01-01, PacifiCorp, Deer Creek
Mine, ACT/015/018, Emery County, Utah

Dear Mr. Carter:

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West") as mine operator, respectfully requests an informal conference to address Notice Of Violation No. N95-35-01-01.

Please consider scheduling the informal conference prior to the August 23 Board Meeting, if your schedule permits.

Thank you for your consideration in this matter. I can be contacted at the above address, or by telephone at (801)687-4722.

Sincerely,

Val Payne
Sr. Environmental Engineer

VP/ba



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

John

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
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801-359-3940 (Fax)
801-538-5319 (TDD)

INSPECTION REPORT

Partial: X Complete: Exploration:
Inspection Date & Time: 6/30/95 1:00 to 3:00
Date of Last Inspection: 6/6/95

Mine Name: Deer Creek County: Emery Permit Number: ACT/015/018
Permittee and/or Operator's Name: PacifiCorp
Business Address: P.O. Box 1005, Huntington, Utah 84528
Type of Mining Activity: Underground X Surface Prep. Plant Other
State Official(s): Susan White
Company Official(s): Karl Houskeeper, Amber Cox, and Jered Olsen
Federal Official(s): None
Weather Conditions: Warm and cloudy
Existing Acreage: Permitted-14,740 Disturbed-93 Regraded- Seeded- Bonded-93
Increased/Decreased: Permitted- Disturbed- Regraded- Seeded- Bonded-
Status: Exploration/ X Active/ Inactive/ Temporary Cessation/ Bond Forfeiture
Reclamation (Phase I/ Phase II/ Final Bond Release/ Liability Year)

REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

	<u>EVALUATED</u>	<u>N/A</u>	<u>COMMENTS</u>	<u>NOVENE</u>
1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. SIGNS AND MARKERS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. TOPSOIL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. HYDROLOGIC BALANCE:				
a. DIVERSIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. SEDIMENT PONDS AND IMPOUNDMENTS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. OTHER SEDIMENT CONTROL MEASURES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. WATER MONITORING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. EFFLUENT LIMITATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. EXPLOSIVES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DISPOSAL OF EXCESS SPOIL/FILLS/BENCHES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. NONCOAL WASTE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. SLIDES AND OTHER DAMAGE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. CONTEMPORANEOUS RECLAMATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. BACKFILLING AND GRADING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. REVEGETATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. SUBSIDENCE CONTROL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. CESSATION OF OPERATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. ROADS:				
a. CONSTRUCTION/MAINTENANCE/SURFACING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. DRAINAGE CONTROLS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. OTHER TRANSPORTATION FACILITIES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. SUPPORT FACILITIES/UTILITY INSTALLATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
19. AVS CHECK (4th Quarter-April, May, June) _____ (date)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. AIR QUALITY PERMIT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. BONDING & INSURANCE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

INSPECTION REPORT

(Continuation sheet)

Page 2 of 2

PERMIT NUMBER: ACT/015/018

DATE OF INSPECTION: 6/29/95

(Comments are Numbered to Correspond with Topics Listed Above)

7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS

Slopes on the refuse pile had been reduced to the committed 2:1 slopes. The access to the north cell of the pile had been changed to enter at the south west corner. This will help facilitate the drainage plan.

18. SUPPORT FACILITIES/UTILITY INSTALLATIONS

Utility line installation had begun within the permitted area without approval from the Division. Violation N95-35-01-01 was issued.

Copy of this Report:

Mailed to: Tom Ehmett (OSM), Karl Houskeeper (PacifiCorp)

Given to: Joe Helfrich (DOGM)

Inspector's Signature: *Susan M. White* #35 Date: 7/14/95