



NO. N 04-39-3-1

notice of violation

To the following Permittee or Operator:

Name Energy West Mining Company

Mine Deer Creek Mine Surface Underground Other

County Emery State Utah Telephone (435) 687-4825

Mailing Address PO Box 310 Huntington UT 84528

State Permit No. C/015/018

Ownership Category State Federal Fee Mixed

Date of inspection 2/25/2004, 19__

Time of inspection 10:00 a.m. p.m. to 2:30 a.m. p.m.

Operator Name (other than Permittee) _____

Mailing Address _____

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.

Certified Return Receipt # 70010320 00054591 8074

Date of service/ mailing 2/26/2004 Time of service/ mailing 3:30 a.m. p.m.

Dennis Oakley Environmental Engineer
Permittee/Operator representative Title

Mailed/faxed from DOGM Price Office
Signature

Stephen J. Demczak Environmental Scientist III
Division of Oil, Gas & Mining representative Title

Stephen J Demczak #39
Signature Identification Number

SEE REVERSE SIDE

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

IMPORTANT — READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Board of Oil, Gas & Mining assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the Division of Oil, Gas & Mining will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be finalized unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violations within the time set for abatement or for meeting any interim step, you will be assessed a minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. You will be issued a Cessation Order requiring you to cease surface coal mining operations or the portion of the operations relevant to the violation.

2. INFORMAL PUBLIC HEARING.

An informal public hearing may be held at or near the mine site if this notice requires cessation of mining, expressly or in practical effect. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice

requires cessation of mining. Please review this finding and inform the authorized representative if you disagree with it. ~~(See UMG/SMC 843.15(a))~~

If this notice requires cessation of mining, it will expire within 30 days from date you are notified unless an informal public hearing is held or waived, or the condition, practice or violation is abated within the 30-day period. You will be notified of date, time and location of hearing.

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice or assessment before the Board of Oil, Gas & Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary
Board of Oil, Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203.

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in ~~UMG 845.19~~ of the board's regulations.

4. EFFECT ON PERMIT.

The permit may be suspended or revoked if it is determined that a pattern of violations of the act, regulations or permit conditions exists, and that the violations were caused by an unwarranted or willful failure to comply.

For further information, consult Section 40-10-20, 21, 22 and 23, *Utah Code Annotated*, UMG/SMC Parts ~~843, 845, 900~~ or contact the Division of Oil, Gas & Mining at (801) 538-5340.

R645-400-350
et seq

R645-811-800
et seq

R645-401 et seq



NOTICE OF VIOLATION NO. N 04-39-3-1

Violation No. 1 of 1

Nature of violation

The permittee conducted mining activities outside the permit area. Snow + non-coal waste material from the Deer Creek mine were placed at the Huntington Power Plant ash pile.

Provisions of act, regulations or permit violated

R645-300-141	R645-301-528.331	R645-301-742.111
R645-300-142	R645-301-542.741	R645-301-742.121
R645-300-143	R645-301-542.742	R645-301-747

UCA Title 40-10-17(2)

Portion of operation to which notice applies

The removal of snow + noncoal waste material from Deer Creek Mine to the Huntington Power Plant ash pile.

Remedial action required (including any interim steps)

- 1) Immediately stop transporting snow + non-coal waste material to the Huntington Power Plant.
- 2) Remove non-coal waste material from the snow piles at the Huntington Power Plant ash pile.

Abatement time (including interim steps)

Remove non-coal waste material by March 8, 2004.