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C/015/018 Incoming
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#3267

ENERGY WEST MINING COMPANY
A SUBSIDIARY OF PACIFICORP

Energy West Mining Company
P. O. Box 310
15 No Main Street
Huntington, Utah 84528

April 15, 2009

Utah Coal Program
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Subject: **Response to Deficiencies in the Deer Creek Mine, Mid-Term Review, PacifiCorp, Deer Creek Mine, C015/0018, Task ID #2036, Emery County, Utah**

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West") as mine operator, hereby submits responses to the deficiencies of the Deer Creek Mine, Mid-Term Review.

Energy West received the Deficiency List document on March 16, 2009. The Division determined that there were some deficiencies that need addressed as part of the Mid-Term Review in order for the MRP to comply with the R645 Coal Mining Rules.

Attached with this document are the permittee's responses to the deficiencies accompanied with information pertinent to the deficiencies. Four (4) copies are attached as required along with the required C1form.

If you have any questions or concerns regarding this document, please contact myself at (435) 687-4720 or Dennis Oakley at (435) 687-4825.

Sincerely,

Kenneth S. Fleck

Kenneth Fleck
Geology and Environmental Affairs Manager

Enclosure: Response to Deficiency List
C1 Form
Amended 2008 4th Qtr. Waste Rock Site Report

Cc: File

The following responses to deficiencies are formatted as found in the technical analysis document. They are broken down into logical section headings similar to the R645 regulations. In each section, the regulation number along with the associated deficiency is follow by the permittee's italicized response.

R645-301-121.200, [PWB] Operational sampling for acid and toxic forming material is found in Vol. 10, Chap VII, p. 7-4, as follows: Grab samples to the depth of the lift will be taken upon completion of each (2) foot lift. Lift completion will be identified in the quarterly engineering report. The Deer Creek Mine quarterly waste rock site inspection reports for MSHA pile 1211-UT-09-00121002 provided in the 2007 Annual report Appendix A contains inconsistencies and the Division cannot determine whether the operation or final parameters would apply. Please make the appropriate corrections to the report and if required , take grab samples in accordance with the Mining and Reclamation Plan Vol 10, Ch VII, page 7-5 and 7-6, if required.

The 2008 4th quarter inspection report has been amended to better clarify the status of the Cell 1 and Cell 2 piles. Please refer to the 2008 Annual Report once submitted in April 2009. Or refer to the DOGM files, as the amended report has been submitted. A copy of the inspection report is attached for the Division's review. Grab samples were taken as required by the Mining and Reclamation Plan.

R645-301-322: [IW] The following set of deficiencies is based on the USFWS Colorado River Endangered Fish Recovery Program Regulations.

- The Permittee must calculate the water consumption due to evaporation from the sediment pond. Even though the water is discharged back into the stream after sediment settling, some water is lost due to evaporation increased by the slow movement of the water. This calculation must be included in the final sum of water consumption.
- When calculating the water consumption due to Coal moisture loss, the Permittee used a coal production figure of 4.2 million tons, which was an estimate from 2002. The Permittee needs to update the calculation of coal moisture loss using a current mining production figure.
- According to the US fish and Wildlife Service, water discharged by the mine is not considered a net gain or loss when calculating water consumption. The Mine is responsible for the Colorado River water consumption regardless of the mine discharge. It is the responsibility of the Permittee to submit documentation from the USFWS supporting mine discharge as a positive contribution to the stream.
- The updated water consumption figure will be subject to a Section 7 consultation with OGM and the USFWS. The USFWS requires a current charge of $17.79 per acre foot when water consumption exceeds 100 acre feet.

The Division and the USFWS are in the process of developing a programmatic agreement that will set policy for reporting water consumption for mining operations. As this process will take considerable time to finalize, the permittee was given instructions by Ms. Ingrid Weiser (Division Biologist) to not supply the information that was requested by the deficiency.

As the agencies are coordinating this programmatic agreement, please include the Utah Mining Association's Environmental Subcommittee in the policy making or developing guidelines. The members are knowledgeable about mining procesess and can contribute a wealth of information to guide the agencies to a workable agreement.

APPLICATION FOR COAL PERMIT PROCESSING

Permit Change ☐ New Permit ☐ Renewal ☐ Exploration ☐ Bond Release ☐ Transfer ☐

Permittee: PacifiCorp

Mine: Deer Creek Mine **Permit Number:** C/015/0018

Title: Response to Deficiencies in the Deer Creek Mine Mid - Term Review

Description, Include reason for application and timing required to implement:

Instructions: If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

☐ Yes ☒ No 1. Change in the size of the Permit Area? Acres: _____ ☐ increase ☐ decrease.
☐ Yes ☒ No 2. Is the application submitted as a result of a Division Order? DO# _____
☐ Yes ☒ No 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?
☐ Yes ☒ No 4. Does the application include operations in hydrologic basins other than as currently approved?
☐ Yes ☒ No 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?
☐ Yes ☒ No 6. Does the application require or include public notice publication?
☐ Yes ☒ No 7. Does the application require or include ownership, control, right-of-entry, or compliance information?
☐ Yes ☒ No 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?
☐ Yes ☒ No 9. Is the application submitted as a result of a Violation? NOV # _____
☐ Yes ☒ No 10. Is the application submitted as a result of other laws or regulations or policies?
Explain: _____
☐ Yes ☒ No 11. Does the application affect the surface landowner or change the post mining land use?
☐ Yes ☒ No 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)
☐ Yes ☒ No 13. Does the application require or include collection and reporting of any baseline information?
☐ Yes ☒ No 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?
☐ Yes ☒ No 15. Does the application require or include soil removal, storage or placement?
☐ Yes ☒ No 16. Does the application require or include vegetation monitoring, removal or revegetation activities?
☐ Yes ☒ No 17. Does the application require or include construction, modification, or removal of surface facilities?
☐ Yes ☒ No 18. Does the application require or include water monitoring, sediment or drainage control measures?
☐ Yes ☒ No 19. Does the application require or include certified designs, maps or calculation?
☐ Yes ☒ No 20. Does the application require or include subsidence control or monitoring?
☐ Yes ☒ No 21. Have reclamation costs for bonding been provided?
☐ Yes ☒ No 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?
☐ Yes ☒ No 23. Does the application affect permits issued by other agencies or permits issued to other entities?

Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you. (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

Kenneth Fleck — Print Name

Kenneth S Fleck — Manager of Environmental Affairs — 4/15/09
Sign Name, Position, Date

Subscribed and sworn to before me this 15 day of April, 20 09

Chris M Christensen
Notary Public

My commission Expires: April 24, 2011

Attest: State of Utah } ss:
County of Emery }

NOTARY PUBLIC
CHRIS M CHRISTENSEN
51 N Main
Huntington, Utah 84528
My Commission Expires
April 24, 2011
STATE OF UTAH

For Office Use Only:	Assigned Tracking Number:	Received by Oil, Gas & Mining

Form DOGM- C1 (Revised March 12, 2002)

INSPECTION AND CERTIFIED REPORT ON EXCESS SPOIL PILE OR REFUSE PILE			Page 1 of 2
Permit Number	ACT/015/018	**Report Date**	orig. report 12/31/08 Revised 4/9/09
Mine Name	Deer Creek		
Company Name	Energy West Mining Company		
Excess Spoil Pile or Refuse Pile Identification	**Pile Name**	Waste Rock Disposal Site	
	Pile Number		
	MSHA ID Number	1211-UT-09-00121-02	
Inspection Date	DEC. 30, 2008		
Inspected By	John Christensen/Rick Cullum		
Reason for Inspection (Annual, Quarterly or Other Periodic Inspection, Critical Installation, or Completion of Construction)	2008 Fourth Quarter Inspection		
	Attachments to Report? X No Yes		

Field Evaluation

1.Foundation preparation, including the removal of all organic material and topsoil.

All construction was done according to the permitted, professional engineered design specifications.

2.Placement of underdrains and protective filter systems.

An underdrain was installed when the site was constructed in 1989. The drain had a small amount of flow coming through it at the time of the inspection.

3.Installation of final surface drainage systems.

All interim slopes are maintained at their proper grade. The final slopes are surveyed to assure they are correct. Also the two final designed rip-rap ditches were installed as per the permitted plan and are extended as more lifts are added.

4.Placement and compaction of fill materials.

The Upper site (Cell 1) was leveled in June 2008. Trash and extraneous material were removed. Lift was sampled as required.

5.Final grading and revegetation of fill.

See No. 3.
The sub-soil berm surrounding the site was seeded shortly after construction. The total capacity of Phase I is 468,215 yd3, this includes both cells 1 and 2.

INSPECTION AND CERTIFIED REPORT
ON EXCESS SPOIL PILE OR REFUSE PILE

6.Appearances of instability, structural weakness, and other hazardous conditions.

No weakness or instabilities are evident at this time.

Other Comments.

Describe any changes in the geometry of the Excess Spoil/Refuse Pile structure, instrumentation, average and maximum lifts of materials placed in the pile, elevations of active benches, total and remaining storage capacity of the structure, evidence of fires in the pile and abatement of such fires, volumes of materials placed in the structure during the year, and any other aspect of the structureaffecting its stability or function which has occurred during the reporting period.

CELL	ELEVATION *	DESIGN ELEV.	CAPACITY**
1 (Upper, northern)	6360.6	6369.2	79.5%
2 (Lower, southern)	6334.6	6369.2	36.9%

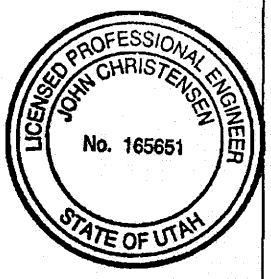
*The elevations are taken on top of the last compacted lift. The elevation of the dumped piles will not be surveyed until the active lift is compacted and leveled. The survey location is approximately the center of each cell.

** The capacity is based on the last survey elevation compared to available height of waste rock in each cell. To figure the available height an approximate elevation of the original ground was determined based on pre-construction ground contours. The capacity will be updated when a new elevation is survey. The capacity is not based on material hauled to site, as described below.

The reason for slight decreased in elevation noted in the previous reports was some material had been removed off the top of the center of the cell and used for separation berms to contain the Deer Creek Mine sediment pond cleanings.

As of Dec. 31, 2008 there was 11,667 yd3 of material hauled YTD. This estimate is based on invoices from the trucking company of truckloads hauled to the site. Each truckload is assumed to be full at 15 tons and a density of 88 pcf. This estimate could lag actual haul dates by 1 to 3 months, depending of invoicing and accounting.

Certification Statement



I hereby certify that; I am experienced in the construction of earth and rock fills; I am qualified and authorized in the State of Utah to inspect and certify the condition and appearance of earth and rock fills in accordance with the certified and approved designs for this structure; that the fill structure has been maintained in accordance with approved design and meet or exceed the minimum design requirements under all applicable federal, state and local regulations; and, that inspections and inspection reports are made by myself and include any appearances of instability, structural weakness or other hazardous conditions of the structure affecting stability.

By: John Christensen, Sr. Construction Engineer
(Full Name and Title)

Signature: John Christensen Date: 4/9/09

P.E. Number & State: 165651, Utah