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DEPARTMENT OF NATURAL RESOURCES

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Outgoing
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March 16, 2009

Kenneth S. Fleck, Manager of Geology & Environmental Affairs
Energy West Mining Company
P.O. Box 310
Huntington, Utah 84528

Subject: Midterm Permit Review, PacifiCorp, Deer Creek Mine, C/015/0018, Task ID #3026

Dear Mr. Fleck:

The Division reviewed the Deer Creek Mining and Reclamation Plan (MRP) as part of the midterm review.

The Division has determined that there are some deficiencies that must be addressed as part of the midterm review in order for the MRP to comply with the R645 Coal Mining Rules. Those deficiencies are listed as an attachment to this letter.

Each deficiency identifies its author by that author's initials in parentheses, such that your staff can directly communicate with that individual should any questions arise relative to the preparation of Deer Creek Mine's response to that particular deficiency. If you have any questions please call me at (801) 538-5262 or Daron Haddock at (801) 538-5325.

Sincerely,

James D. Smith
Permit Supervisor

JDS/sqs
attachment
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Deficiency List
Task ID #2036
Midterm Review

The members of the review team include the following individuals:

Priscilla Burton [PWB]
Ingrid Wieser [IW]

R645-301-121.200, [PWB] Operational sampling for acid and toxic forming materials 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-09-00121-02 provided in the 2007 Annual report Appendix A contains inconsistencies and the Division cannot determine whether a two foot lift was completed and whether grab samples should be taken or whether the operational 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.

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.