



GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

April 23, 2018

Ken Fleck, Manager of Geology and Environmental Affairs  
Interwest Mining Company  
P.O. Box 310  
Huntington, Utah 84528

Subject: Findings of Fact, Conclusions, and Order for Violation NO21160, PacifiCorp, Deer Creek Mine, C/015/0018

Dear Mr. Fleck:

On January 5, 2016 an Informal Assessment Conference was held at the Division of Oil, Gas and Mining regarding a violation Issued to PacifiCorp at the Deer Creek Mine. As a result of the facts given at the conference I have upheld the violation and lowered the fine to \$396.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty of \$396.00 must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, c/o Vickie Southwick at the address listed below.

Sincerely,

Dana Dean, P.E.  
Associate Director  
Assessment Conference Officer

DD/vs

Cc: Karl Houskeeper  
Daron Haddock  
John webster

C:\Users\vickiesouthwick\Downloads\Assessment conf letter 21160.docx



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

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**IN THE MATTER OF THE  
INFORMAL ASSESSMENT  
CONFERENCE for PROPOSED  
ASSESSMENT; VIOLATION No.  
N21160, INTERWEST MINING  
COMPANY, DEER CREEK  
MINE, C/015/0018, EMERY  
COUNTY, UTAH**

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**FINDINGS of FACT,  
CONCLUSIONS OF LAW  
AND ORDER**

**CAUSE NO. C/0015/0018**

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On January 5, 2015 the Division of Oil, Gas and Mining (Division) held an Informal Assessment Conference as provided for by Utah Admin. Code R645-401-700 in response to the written request by Interwest Mining to review the fact of violation and amount assessment for Notice of Violation NO21160 (NOV), issued to it on November 12, 2015 for operations at the Deer Creek Mine, C/015/0018, Emery County, Utah.

**ISSUES**

The Division in its Notice of Violation found that Utah Admin. Code rule R645-301-514.300 and R645-301-514.320 had been violated. These rules require that the permittee inspect impoundments at least quarterly. The Division assessed a fine of \$660 for this violation.

**PARTIES**

Dana Dean, Associate Director of the Division of Oil, Gas and Mining served as the hearing officer. The hearing was conducted as an informal adjudicative proceeding. Karl Houskeeper, Joe Helfrich and Daron Haddock represented the Division in defense of the fact of violation. Ken Fleck, Dennis Oakley and Scott Childs represented Interwest Mining and presented the position and arguments on its behalf.

No recording or transcript of the conference was made.

Based on the information provided at the conference, the statements presented by those speaking, and on information in the files of the Division, the following Findings of Fact and Conclusions of Law were made.

## FINDINGS OF FACT

- At the time of the hearing, the Deer Creek Waste Rock Site was owned by Bowie Refined Coal, but Interwest Mining was still the permittee
- All parties agreed that neither Interwest, nor Bowie Refined Coal had not inspected the sedimentation pond at the Deer Creek Waste Rock site during the third quarter of 2015
- The Division pointed out that the rules require the permittee to inspect impoundments at least quarterly, with no exception
- Interwest argued that they have no access to the site because they no longer own it
- It is clear that Interwest is still the permittee and still responsible to follow the rules, but they may not have understood that to be the case at the time

## CONCLUSIONS OF LAW

1. Interwest was the permittee of record at the time of the violation and hearing
2. The rules require impoundments to be inspected quarterly
3. No inspection was made during the 3<sup>rd</sup> quarter of 2015

## ORDER

NOW THEREFORE, it is ordered that:

1. Violation 21160 is upheld
2. The fine is lowered to \$396 by removing the 8 negligence points

SO DETERMINED AND ORDERED this 23rd day of April 2018



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Dana Dean, P.E., Associate Director  
Division of Oil, Gas and Mining