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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

1594 West North Temple, Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801  
801-538-5340  
801-359-3940 (Fax)  
801-538-7223 (TDD)

September 3, 1997

CERTIFIED RETURN RECEIPT  
P 074 977 750

Chuck Semborski, Environmental Engineer  
Energy West  
P.O. Box 310  
Huntington, Utah 84528

Re: Proposed Assessment for State Violation No. N-97-26-6-1, PacifiCorp,  
Cottonwood/Wilberg Mine, ACT/015/019, Folder #5, Emery County, Utah

Dear Mr. Semborski:

The undersigned has been appointed by the Division of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector William J. Malencik, on August 13, 1997. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph

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N-97-26-6-1  
ACT/015/019  
August 28, 1997

1, the Assessment Conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.**

Sincerely,



Pamela Grubaugh-Littig  
Assessment Officer

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Enclosure

cc: James Fulton, OSM  
Vicki Bailey, DOGM

O:\015019.CWW\ASSESMNT\9726-6-1.LTR

TT DOGM ACT/015/019 FID #5 N-97-26-6-1 9/4/97

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1.  Show to whom delivered, date, and addressee's address. 2.  Restricted Delivery (Extra charge)

3. Article Addressed to:  
CHUCK SEMBORSKI  
ENERGY WEST  
PO BOX 310  
HUNTINGTON UT 84528

4. Article Number  
P 074 977 750

Type of Service:  
 Registered       Insured  
 Certified       COD  
 Express Mail       Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address:  
X

8. Addressee's Address (ONLY if requested and fee paid)

6. Signature - Agent  
X *[Signature]*

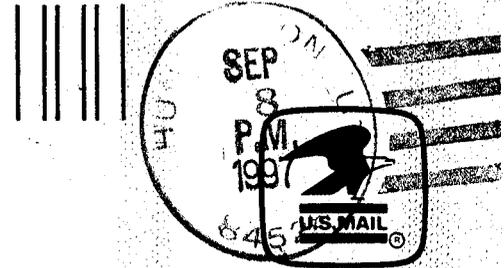
7. Date of Delivery  
SEP 0 1997

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.  
 • Complete items 1, 2, 3, and 4 on the reverse.  
 • Attach to front of article if space permits, otherwise affix to back of article.  
 • Endorse article "Return Receipt Requested" adjacent to number.

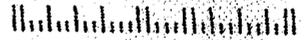


PENALTY FOR PRIVATE USE, \$300

RETURN TO →

Print Sender's name, address, and ZIP Code in the space below.

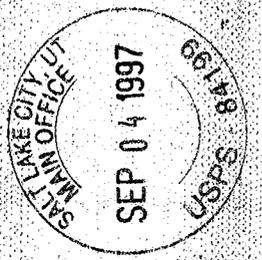
\_\_\_\_\_  
 DIVISION OF OIL GAS & MINING  
 1594 W NO TEMPLE STE 1210  
 PO BOX 145801  
 SLC UT 84114



PS Form 3811, Mar. 1988 \* U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

P 074 977 750

CHUCK SEMBORSKI  
 ENERGY WEST  
 PO BOX 310  
 HUNTINGTON UT 84528



TT DOGM ACT/015/019 N-97-26-6-1 9/4/97

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make inquiry.

\* U.S.G.P.O. 1988-217-132

WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS, & MINING

COMPANY/MINE PacifiCorp/Cottonwood/Wilberg NOV# N-97-26-6-1

PERMIT ACT/015/019 VIOLATION 1 OF 1

ASSESSMENT DATE 08/28/97 ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 POINTS

- A. Are there previous violations, which are not pending or vacated, which fall within 1 year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
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1 point for each past violation, up to one year  
5 points for each past violation in a CO, up to one year  
No pending notices shall be counted

**TOTAL HISTORY POINTS** 0

II. SERIOUSNESS (EITHER A OR B)

NOTE: For assignment of points in Parts II and III, the following apply:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the point up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? A

A. EVENT VIOLATION MAX 45 POINTS

1. What is the event which the violated standard was designed to prevent?  
**Water Pollution**
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY

RANGE

None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 13**

**PROVIDE AN EXPLANATION OF POINTS:**

The silt fences were not maintained and there was a potential for untreated disturbed runoff.

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS 5**

**PROVIDE AN EXPLANATION OF POINTS:**

Untreated runoff has the potential to cause damage to the environment, but damage was not noted by the inspector.

B. HINDRANCE VIOLATION MAX 25 POINTS

1. Is this a potential or actual hindrance to enforcement?       
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS 0**

**PROVIDE AN EXPLANATION OF POINTS:**

**TOTAL SERIOUSNESS POINTS (A OR B) 18**

III. NEGLIGENCE MAX 30 POINTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE: or was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE No Negligence  
**ASSIGN NEGLIGENCE POINTS 0**

**PROVIDE AN EXPLANATION OF POINTS:**

Reasonable care was exercised by the permittee. Repetitive storms hit the area.

**IV. GOOD FAITH MAX 20 POINTS**

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

Immediate Compliance -11 to -20\*

(Immediately following the issuance of the NOV)

Rapid Compliance -1 to -10

(Permittee used diligence to abate the violation)

Normal Compliance 0

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IN SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

Rapid Compliance -11 to -20\*

(Permittee used diligence to abate the violation)

Normal Compliance -1 to -10\*

(Operator complied within the abatement period required)

Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and

Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Easy

ASSIGN GOOD FAITH POINTS -13

**PROVIDE AN EXPLANATION OF POINTS:**

Three silt fences were cited as not being maintained. One of the silt fences was repaired during the inspection. The inspector was notified by phone the day of the inspection that all of the silt fences had been repaired the day of the inspection.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION		<u>N-97-26-6-1</u>
I.	TOTAL HISTORY POINTS:	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS:	<u>18</u>
III.	TOTAL NEGLIGENCE POINTS:	<u>0</u>
IV.	TOTAL GOOD FAITH POINTS:	<u>-13</u>
	TOTAL ASSESSED POINTS:	<u>5</u>
	<b>TOTAL ASSESSED FINE:</b>	<b><u>\$50</u></b>