

D.G.M P 074 975 443

# RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

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(See Reverse)

Sent to	JAMES LITMAN
Street and No.	VALLEY CAMP OF UTAH
SCOTFIELD ROUTE	
P.O. State and ZIP Code	HELPER UT 84526
Postage	93-39-4-1 ACT/007/s001 sm 52
Certified Fee	100
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	100
Return Receipt showing to whom Date, and Address of Delivery	
TOTAL Postage and Fees	\$252
Postmark or date	



PS Form 3800, June 1985



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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Governor

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Executive Director

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November 8, 1993

CERTIFIED RETURN RECEIPT  
P 074 975 443

Mr. James Litman  
Valley Camp of Utah, Inc.  
Scofield Route  
Helper, UT 84526

Re: Proposed Assessment for State Violation No. N93-39-4-1, Valley Camp of Utah, Inc., Belina Complex Mine, ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Litman:

The undersigned has been appointed by the Board 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, Stephan J. Demczak on September 10, 1993. Rule R645-401-600 et. sec. 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 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,

A handwritten signature in cursive script that reads "Joseph C. Helfrich" with a small "for" written below it.

Joseph C. Helfrich  
Assessment Officer

sm

Enclosure

cc: Bernie Freeman, OSM

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Valley Camp of Utah, Inc./Belina Complex      NOV #N93-39-4-1

PERMIT # ACT/007/001      VIOLATION 1 OF 1

ASSESSMENT DATE 11/5/93      ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

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

ASSESSMENT DATE 11/5/93      EFFECTIVE ONE YEAR TO DATE 11/5/92

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N93-39-1-1</u>	<u>6/18/93</u>	<u>1</u>

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 1**

**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

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

**A. Event Violations Max 45 PTS**

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? Unlikely.

...	PROBABILITY	RANGE
...	None	0
...	Unlikely	1-9
...	Likely	10-19
...	Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 5**

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the sediment pond sediment level was above the 60% fluid level. The pond was not discharging and prior water samples for NPDES compliance were satisfactory.

- 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 0**

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

**B. Hindrance Violations MAX 25 PTS**

- 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**

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 5

**III. NEGLIGENCE MAX 30 PTS**

- 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 - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

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

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The permittee was provided an opportunity to clean the pond prior to the issuance of the notice of violation.

**IV. GOOD FAITH MAX 20 PTS. (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 in 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?

... IF 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, or the plan submitted for abatement was incomplete)

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

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS ←20

PROVIDE AN EXPLANATION OF POINTS

In lieu of the abatement requirements both with regard to the permit as well as on the ground, the permittee exercised diligence in abating the violation.

V. ASSESSMENT SUMMARY FOR N93-39-4-1

I.	TOTAL HISTORY POINTS	<u>1</u>
II.	TOTAL SERIOUSNESS POINTS	<u>5</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-20</u>
	TOTAL ASSESSED POINTS	<u>6</u>
	TOTAL ASSESSED FINE	<u>\$ \$60.00</u>

COMPANY/MINE Valley Camp NOV/CO # 93-39-4-1

PERMIT # ACT/007/001 VIOLATION # 1 OF 1

EVENT VIOLATIONS INSPECTOR'S STATEMENT

A. SERIOUSNESS

1. What harmful event was this regulation designed to prevent? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Check and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment of a permanent, diverse and effective vegetative cover.
- i. Other.

◆Pond was above the 60% sediment load level. Pond was not discharging, and months prior water samples for NPDES permit were ok.

2. Has the event occurred? Yes XXX No     

If yes, describe it. If no, what would cause it to occur and how likely is it that it would happen?

◆Pond above the 60% sediment load level at the mine site pond 004A.

3. Would and/or does damage extend off the disturbed and/or permit area?

DISTURBED AREA

PERMIT AREA

Would: Yes      No XXX  
Does: Yes      No XXX

Would: Yes      No XXX  
Does: Yes      No XXX

4. Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not damage would extend off the disturbed and/or permit area.

The potential of water pollution to fishing stream and Price City drinking water.

Potential damage off the disturbed area. Yes XXX No     

Potential damage off the permit area. Yes XXX No

B. DEGREE OF FAULT (Only one question applies to each violation; check one and discuss.

(  ) No Negligence

If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

(  ) Ordinary Negligence

If you think this violation was the result of not knowing about DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

(  ) Recklessness

If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

◆The survey of the pond in October 1992 and which the Annual Report P.E. certified was compiled and revealed the pond was reaching the 60% level, eleven months went by without cleaning. Pond in the past is cleaned every three years. Therefore, fills up 20% per year average. The operator was warned through an inspection report and verbally that the pond was above the 60% sediment load level prior to NOV.

(  ) Knowing and Willful Conduct

Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

◆ Plan submitted prior to September 20, 1993 due date. Pond was cleaned and surveyed by September 20, 1993 prior to abatement time of October 10, 1993. *9/15*

*9/21*  
Should receive maximum good faith points!

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

◆ Yes, there is enough equipment to clean pond below 60% sediment level.

3. Was the submission of plans prior to physical activity required by this NOV? Yes XXX No

◆ To impound sediment on site and location of the sediment.

September 23, 1993  
DATE

  
\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE