P 074 976 111

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
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(See Reverse)

Sent to MIKE GIPSON	
Street and No. WHITE OAK	
P.O., State and ZIP Code PO BOX 60 HELPER UT	
Postage	$ .75
Certified Fee	1
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	1
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$ 2.75
Postmark or Date	

PS Form 3800, June 1985

SM DOGM SM N94-43-2-1 ACT/007/001

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

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

June 14, 1994

CERTIFIED RETURN RECEIPT
P 074 976 111

Mike Gipson, Mine Manager
White Oak Construction
& Mining Co., Inc.
P.O. Box 60
Scofield Route
Helper, UT 84526

Re: Proposed Assessment for State Violation No. N94-43-2-1, White Oak Mining & Costruction Co., Inc., ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Gipson:

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 on March 8, 1994 by Inspector Jesse Kelley. 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,

Joseph C. Helfrich
Assessment Officer

/sm

Enclosure
cc: Bernie Freeman, OSM
Mike Gipson

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

COMPANY/MINE White Oak Mining & Construction Co., Inc./White Oak Complex

NOV #N94-43-2-1

PERMIT # ACT/007/001 VIOLATION 1 OF 1

ASSESSMENT DATE 06/14/94 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 06/14/94 EFFECTIVE ONE YEAR TO DATE 06/14/93

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS

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 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? Hindrance

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?

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 ____

PROVIDE AN EXPLANATION OF POINTS

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 ____

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual

RANGE 0 - 25

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

ASSIGN HINDRANCE POINTS 25

PROVIDE AN EXPLANATION OF POINTS
The absence of mine identification, disturbed area boundary marker and buffer zone marker signs actually hindered the inspector from evaluating compliance.

TOTAL SERIOUSNESS POINTS (A or B) 25

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 Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS
Lack of reasonable care with respect to Section 521.200-261 of the permittee's permit application package.

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** -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N94-43-2-1

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	25
III.	TOTAL NEGLIGENCE POINTS	8
IV.	TOTAL GOOD FAITH POINTS	-0
	TOTAL ASSESSED POINTS	33
	TOTAL ASSESSED FINE	$ 460.00

/sm

HINDRANCE TO ENFORCEMENT VIOLATIONS
INSPECTOR STATEMENT

Company/Mine White Oak Mng & Const / White Oak Complex
Permit # ACT/007/001

NOV/CO # 94-43-2-1
Violation # 1 of 1

A. HINDRANCE TO ENFORCEMENT (Answer for hindrance violations only such as violations concerning record keeping, monitoring, plans and certification).

Describe how violation of this regulation actually X OR potentially ___ (check one) hindered enforcement by DOGM and/or the public and explain the circumstances.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

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

Explanation

X Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.

Explanation Section 521.200 of the PAP describes Permit I.D. signs, perimeter markers, and buffer zone markers as they are to be placed and maintained. The MRP contains a brief summary of the Operation Plan but does not provide any additional or modifying information concerning markers. The violation would seem to be the result of lack of reasonable care.

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

Explanation

() Was the operator in violation of any conditions or stipulations of the approved MRP?

Explanation

NOV/CO #94-43-2-1
Violation #1 of 1

() Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation?

Explanation

() Has DOGM or OSM cited a same or similar violation of this regulation in the past? If so, give the dates and the type of enforcement action taken.

Explanation

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.

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

3. Was the submission of plans prior to physical activity required by this NOV? Yes___ No___ If Yes, explain.

James D. SMITH
Authorized Representative

Signature

6 June '94
Date