



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)

November 22, 1994

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

Re: Corrected Letter, White Oak Bond, Division Order DO-94A, White Oak Mining and Construction Co., Inc., White Oak Mine #1 and #2, ACT/007/001-DO-94A, Folder #3, Carbon County, Utah

Dear Mr. Wayment:

This letter supercedes the November 16, 1994 letter in regard to Division Order DO-94A. The reclamation cost estimate submitted September 27, 1994 has been reviewed by the Division staff. The current bond that is posted is in excess of the Division's current reclamation cost estimate, i.e. the Division's estimate is \$4,247,000 (1999 dollars) and the permittee has \$5,891,000 posted by a surety.

The \$4,247,000 reclamation cost estimate is based on the currently approved plan. Therefore, the bond that is currently posted may be adjusted at this time. It should be noted, however, that any changes to the currently approved plan may affect the reclamation cost estimate.

Sincerely,

Pamela Grubaugh-Littig
Permit Coordinator

cc: Lowell Braxton
Daron Haddock





7-1

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October 12, 1994

CERTIFIED RETURN RECEIPT
P 074 976 429

Mark Wayment, Mine Manger
White Oak Mining & Constntruction Co., Inc.
Scofield Route
Helper, Utah 84526

Re: Proposed Assessment for State Violation No. N94-45-2-1, White Oak Mining & Constntruction Co., Inc., White Oak #1 & #2 Mine, ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Wayment:

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, Scott Milovich on September 26, 1994. 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.



P 074 976 429

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

MBM DOGM ACT/007/001 N94-45-2-1 FLDR #5

~~MARK WAYMENT MINE MGR~~
~~WHITE OAK MINING & CONSTR~~
Street and No.
SCOFIELD ROUTE

P.O., State and ZIP Code

HELPER UT 84526

Postage

\$

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing
to whom and Date Delivered

Return Receipt showing to whom,
Date, and Address of Delivery

TOTAL Postage and Fees

\$

Postmark or Date

10-13-94

Page 2
N94-45-2-1
ACT/007/001
October 12, 1994

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

jbe
Enclosure
cc: Bernie Freeman, OSM

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

COMPANY/MINE White Oak Mining/White Oak #1 & #2

NOV #N94-45-2-1

PERMIT # ACT/007/001

VIOLATION 1 OF 1

ASSESSMENT DATE 10/6/94

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 10/6/94

EFFECTIVE ONE YEAR TO DATE 10/6/93

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N93-9-9-2</u>	<u>2/17/94</u>	<u>2</u>
<u>N93-39-7-1</u>	<u>2/17/94</u>	<u>1</u>
<u>N94-39-1-1</u>	<u>6/3/94</u>	<u>1</u>
<u>N94-39-2-1</u>	<u>8/13/94</u>	<u>1</u>
<u>N94-43-1-1</u>	<u>8/14/94</u>	<u>1</u>
<u>N94-43-2-1</u>	<u>8/13/94</u>	<u>1</u>
<u>N94-43-3-1</u>	<u>9/22/94</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 8

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 20

PROVIDE AN EXPLANATION OF POINTS

The permittee failed to fulfill a specific permit condition (permit stipulation #2 of the permit transfer).

TOTAL SERIOUSNESS POINTS (A or B) 20

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 18

PROVIDE AN EXPLANATION OF POINTS

The permittee was in violation of a specific permit condition by failing to submit the required changes to the MRP within the 90-day period allowed.

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 based upon the adequacy of the information submitted by the permittee and at the termination of the Notice of Violation.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N94-45-2-1</u>
I.	TOTAL HISTORY POINTS	<u>8</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>18</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>46</u>
	TOTAL ASSESSED FINE	<u>\$ 840.00</u>