



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

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May 18, 1995

CERTIFIED RETURN RECEIPT
P 074 976 200

Steve Tanner
White Oak Mining Company
Scofield Route
Helper, Utah 84526

Re: Proposed Assessment for State Violation No. N95-32-1-1, White Oak Mining Company, White Oak Mine, ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Tanner:

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, Henry Sauer on April 12, 1995. 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

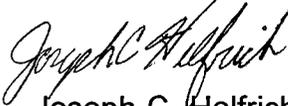


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of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

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

blb
Enclosure
cc: Donna Griffin, OSM

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

COMPANY/MINE White Oak Mining/White Oak Mine

NOV #N95-32-1-1

PERMIT # ACT/007/001

VIOLATION 1 OF 1

ASSESSMENT DATE 5/16/95

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 5/16/95

EFFECTIVE ONE YEAR TO DATE 5/16/94

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N94-43-2-1</u>	<u>08/13/94</u>	<u>1</u>
<u>N94-43-3-1</u>	<u>10/22/94</u>	<u>1</u>
<u>N94-45-2-1</u>	<u>10/22/94</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 3

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? A

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Conducting activities without appropriate approvals.
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 20

PROVIDE AN EXPLANATION OF POINTS

In the vicinity of portals 12 thru 16 and the mine office large piles of trash were observed. Numerous piles of grease, oil and other products were hap hazardly located in and around the operations area.

- 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

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) 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 20

PROVIDE AN EXPLANATION OF POINTS

The notice of violation occurred as a result of lack of reasonable care as well as prior warning by state inspectors. The operator was fully aware that the non-coal waste was supposed to be placed in the designated trash bins it appeared as though the situation has existed throughout the winter. During the March of 1995, state inspection Division staff member Jim Smith advised Steve Tanner of White Oak of the need to correct the non-coal waste situation.

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** _____

I.	TOTAL HISTORY POINTS	<u>3</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>43</u>
	TOTAL ASSESSED FINE	<u>\$ 720.00</u>

blb

EVENT VIOLATIONS INSPECTORS STATEMENT

Company/Mine White Oak Mining & Construction Company Inc./ White Oak Complex NOV/CO # 95-32-1-1
Permit # ACT/007/001

Violation # ___ of ___

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle 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, diverse and effective vegetative cover.
- i. No event occurred as a result of the violation.
- j. Other.

2. Has the event occurred? Yes X No ___

XX Yes: Describe it.

___ No: What would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

In the vicinity of Portals Number 12 thru 16 and the mine office large piles of trash were observed. Numerous pallets of grease, oil and other products were haphazardly located in and around the operations area.

3. Did any damage occur as a result of the violation?

XX No

___ Yes: 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 it would extend off the disturbed and/or permit area.

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

The operator was fully aware that the noncoal waste was supposed to be placed in the trash bins. The violation has existed all winter.

- () 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 a specific permit condition?

Explanation

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

Explanation

During the March 1995 state inspection Mr. Jim Smith told Mr. Steve Tanner that if the situation was not resolved the DOGM would issue a 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.

Explanation

C. GOOD FAITH

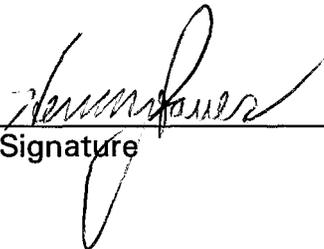
1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

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

Yes, the operator had all the necessary equipment on site to achieve compliance.

3. Was the submission of plans prior to physical activity required by this NOV/CO? Yes___ No X If yes, explain.

Henry Sauer
Authorized Representative


Signature

4/26/15
Date