



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)

July 29, 1997

CERTIFIED RETURN RECEIPT

P 074 977 746

Mark Wayment, Mine Manager
White Oak Mining & Construction
Scofield Route
Helper, UT 84526

Re: Proposed Assessment for State Violation No. N-97-39-4-1, White Oak Mining & Construction, White Oak Mine, ACT/007/001, Folder #5, Carbon County, Utah

Dear Mr. Wayment:

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 Stephen J. Demczak, on June 26, 1997. 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

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RECEIPT FOR CERTIFIED MAILNO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL*(See Reverse)*

Sent to

MARK WAYMENT

Street and

WHITE OAK

P.O., State and ZIP Code

**SCOTFIELD ROUTE
HELPER UT 84526**

Postage

S

Certified Fee

Special Delivery Fee

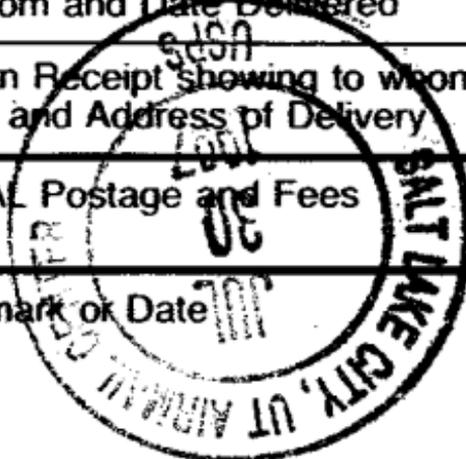
Restricted Delivery Fee

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

TOTAL Postage and Fees

Postmark or Date

2.00



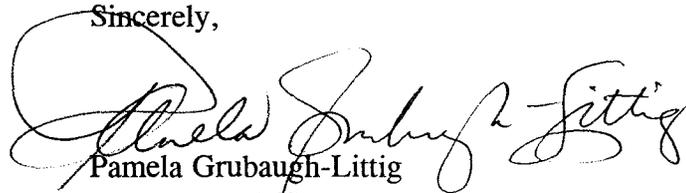
7/30/97

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ACT/007/001
July 17, 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,

A handwritten signature in cursive script, appearing to read "Pamela Grubaugh-Littig".

Pamela Grubaugh-Littig
Assessment Officer

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Enclosure
cc: James Fulton, OSM
Vicky Bailey, DOGM, w/o
O:\007001.WO\ASSESSME\9739-4-1.LTR

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

COMPANY/MINE White Oak Mining/White Oak Mine NOV# -N-97-39-4-1

PERMIT ACT/007/001 VIOLATION 1 OF 1

ASSESSMENT DATE 7/16/97 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
<u>N-96-7-1-1</u>	<u>09/11/96</u>	<u>1</u>
<u>N-96-7-2-3</u>	<u>09/11/96</u>	<u>3</u>
<u>N-96-7-3-1</u>	<u>09/11/96</u>	<u>1</u>
<u>N-96-39-7-1</u>	<u>04/07/97</u>	<u>1</u>
<u>N-97-39-1-1</u>	<u>04/16/97</u>	<u>1</u>
<u>N-97-39-2-1</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 apply:

- Based on the 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 VIOLATIONS 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?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

Road ditches were not functioning as designed and caused erosion in the out slope of the road. The creek is located below the erosion.

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 10

PROVIDE AN EXPLANATION OF POINTS

The potential damage is serious due to the "erosional" proximity to the creek.

B. Hindrance Violations MAX 25 POINTS

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

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A OR B) 30

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

STATE DEGREE OF NEGLIGENCE Negligent

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

The permittee had been warned previously to correct this problem.

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 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 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? Moderate

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

Hand seeding is required, plus some hand placement of soil. This violation has not been abated to date.

V. ASSESSMENT SUMMARY FOR N-97-39-4-1

I.	TOTAL HISTORY POINTS	<u>8</u>
II.	TOTAL SERIOUSNESS POINTS	<u>30</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>53</u>
	TOTAL ASSESSED FINE	<u>\$1,120.00</u>