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

Michael O. Leavitt  
Governor  
Kathleen Clarke  
Executive Director  
Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801  
801-538-5340  
801-359-3940 (Fax)  
801-538-7223 (TDD)

June 22, 2000

CERTIFIED RETURN RECEIPT  
P 074 978 560

David Miller, Resident Agent  
Lodestar Energy, Inc.  
HC 35 Box 370  
Helper, Utah 84526

Re: Reassessment of State Violation No. N2000-46-1-2 (2 of 2), Lodestar Energy, Inc.,  
White Oak Mine, ACT/007/001, Outgoing File

Dear Mr. Miller :

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed reassessment for the above referenced violation. The violation was issued by Division Inspector Pete Hess, on April 12, 2000. On April 28, 2000 the proposed assessment for this violation was issued. On May 15, 2000 (within 15 days of the receipt of the April 28, 2000 letter), Lodestar submitted additional information relative to this violation and requested that the violation be vacated.

The Division has considered this request for vacation of this violation and upholds the fact of the violation because the permittee could have taken action prior to November 1999 to repair damage to the surface (This violation was written for "failure to correct material damage to surface lands resulting from subsidence of surface lands"). The permittee "dangered off" this area prior to the snowfall in November 1999 and could have repaired this area at that time and the damage would not have been as extensive as seen in April 2000.

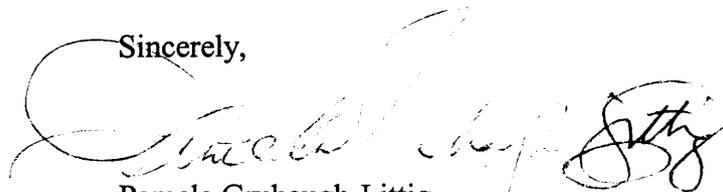
The Division has, however, reassessed the penalties associated with this violation. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of the Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are still two informal appeal options available to you:

1. If you wish to informally appeal the fact of 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 reassessment, 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 Tiffini Moss.

Sincerely,



Pamela Grubaugh-Littig  
Assessment Officer

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Enclosure:

cc: OSM Compliance rpt.  
Tiffini Moss, DOGM

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WORKSHEET FOR REASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING

COMPANY/ MINE Lodestar Energy, Inc., White Oak Mine NOV # N2000-46-1-2 ( 2 of 2)

PERMIT ACT/007/001

VIOLATION 2 of 2

RE-ASSESSMENT DATE June 21, 2000

ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY (Max. 25 pts.)

A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today's date? *No*

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____
_____	_____	_____

1 point for each past violation, up to one (1) year  
5 points for each past violation in a CO, up to one (1) 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 apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
2. Beginning at the mid-point of the 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) Event

A. EVENT VIOLATION (Max 45 pts.)

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

*Environmental harm, loss of reclamation/revegetation potential.*

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** 10

**PROVIDE AN EXPLANATION OF POINTS:**

*Subsidence damage did occur and there was loss of revegetation potential. This area had been "dangered off" prior to the snowfall and increased in size during the winter. If this area had been repaired prior to the snowfall, the damage would not have been as extensive.*

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** 5

**PROVIDE AN EXPLANATION OF POINTS:**

*The potential damage was loss of topsoil and reclamation potential.*

B. HINDRANCE VIOLATION (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** 0

**PROVIDE AN EXPLANATION OF POINTS:**

TOTAL SERIOUSNESS POINTS ( A or B ) 15

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--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

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

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*The cause and time of this slump are not known, but this "feature" was visible on the surface and had been "dangered off" and acknowledged by the permittee prior to the snowfall, i.e. November 1999. It is known, however, that it was not caused by the extraction of pillars from the lower O'Connor Seam in the #2 Mine, due to its location immediately in by the #8 portal.*

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 condition and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring the 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? \_\_\_\_\_

ASSIGN GOOD FAITH POINTS 10

**PROVIDE AN EXPLANATION OF POINTS:**

*The permittee corrected this situation within the abatement period required.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION N2000-46-1-2 ( 2 of 2)

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>5</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>10</u>

**TOTAL ASSESSED FINE \$ 100.00**