

May 17, 2006

CERTIFIED RETURN RECEIPT  
7004 2510 0004 1824 3007

Wess Sorensen, Mine Manager  
Canyon Fuel Company, LLC  
HC 35 Box 380  
Helper, Utah 84526

Subject: Proposed Assessment for State Violation No. N06-39-3-1, Canyon Fuel Company LLC, Skyline Mine, C/007/0005, Task ID #2510, Outgoing File

Dear Mr. Sorensen:

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 civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Stephen J. Demczak, on May 1, 2006. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information that was submitted by you or your agent within fifteen (15) days of receipt of this 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 thirty (30) days of receipt of this letter. This conference will be conducted by an assigned conference officer (usually the Division Director or Associate Director). This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

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2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (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 will become final, and the penalty will be due and payable within thirty (30) days of the proposed assessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

Daron R. Haddock  
Assessment Officer

DRH/sd  
Enclosure  
cc: OSM Compliance Report  
Vickie Southwick, DOGM  
Price Field Office  
O:\007005.SKY\Compliance\proposedasmntN063931.doc

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Canyon Fuel Co. LLC / Skyline Mine PERMIT C/007/005  
NOV/CO # N06-39-3-1 VIOLATION 1 of 1

ASSESSMENT DATE May 17, 2006

ASSESSMENT OFFICER Daron R. Haddock

**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?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>None</u>	<u></u>	<u></u>

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 where 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? **Hindrance (B)**

A. EVENT VIOLATION (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?

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

**ASSIGN PROBABILITY OF OCCURRENCE POINTS   0**

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*Not Applicable**

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:**

**\*\*\*Not Applicable**

- B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?   15    
RANGE 0-25

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

**ASSIGN HINDRANCE POINTS   15**

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*The Permittee failed to submit all of the water quality information to the Division's Electronic Database System for the second, third and fourth quarters of 2005, as required by permit condition #1. This inaction prevented/hindered the Division's assigned hydrologist and inspector from reviewing the information in a timely manner. Without this information being collected and submitted, it is difficult to determine what impact mining may have had on the hydrologic balance at the mine site during the second, third and fourth quarters of 2005. This represents actual hindrance to our inspector since he could not review the information. Points are assigned in the mid to upper part of the range because of actual hindrance.**

**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 15

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\*The Permittee should have been aware that water-monitoring data is required to be submitted on a regular basis as part of their monitoring program. It is their responsibility to ensure that the water monitoring data gets submitted to the Electronic Database System. The fact that the data was not submitted, indicates a lack of diligence on the part of the operator. Thus, the assignment of 15 points for this category, which is in the negligence range.***

**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 of 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? Easy Abatement

ASSIGN GOOD FAITH POINTS -20

**PROVIDE AN EXPLANATION OF POINTS:**

*\*\*\*Once the operator was informed that the violation was to be issued, he took immediate steps to supply the required information. The information that could be supplied was readily available which made for an easy abatement. The Operator started collecting the missing data even before the violation was issued. The data was submitted the same day that the violation was issued and the violation was terminated the same day. This shows diligence on the part of the operator. Maximum good faith points are assigned due to immediate compliance.*

**V. ASSESSMENT SUMMARY**

NOTICE OF VIOLATION # <u>N06-39-3-1</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>15</u>
III.	TOTAL NEGLIGENCE POINTS <u>15</u>
IV.	TOTAL GOOD FAITH POINTS <u>-20</u>
	TOTAL ASSESSED POINTS <u>10</u>
	<b>TOTAL ASSESSED FINE <u>\$ 220</u></b>