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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

June 28, 2016

CERTIFIED RETURN RECEIPT
9590 9402 1201 5246 2589 27

Gregg Galecki
Canyon Fuel Company LLC
HC Box 380
Helper Utah 84526

Subject: Proposed Assessment for State Violation No. N 21182, Skyline Mine, C/007/0005, Task ID #5193

Dear Mr. Galecki:

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, Karl Housekeeper, on May 27, 2016. 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 this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

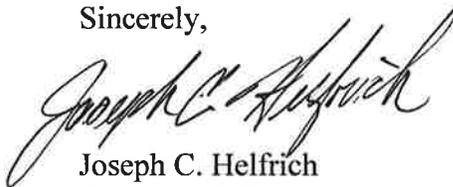
Under R645-401-700, there are two informal appeal options available to you:

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 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 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(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 Suzanne Steab.

Sincerely,



Joseph C. Helfrich
Assessment Officer

Enclosure

cc: Sheri Sasaki, DOGM
Suzanne Steab, DOGM

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

COMPANY / MINE Bear Canyon Mine

PERMIT C/007/0005 NOV / CO # N 21182

VIOLATION 1 of 1

ASSESSMENT DATE June 28, 2016

ASSESSMENT OFFICER Joe Helfrich

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
_____	_____	_____
_____	_____	_____

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? Event

A. EVENT VIOLATION (Max 45 pts.)

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

Activity Outside the Approved Permit Area,

Injury to the Public (Public Safety),
Environmental harm and 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:

*****According to the information in the inspector statement, lab results and consultation with DWR and the Forest Service; Activity outside the Approved Permit Area and water pollution did occur, it would be unlikely that injury to the public would occur and there was no environmental harm that occurred as a result of the violation.**

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 12

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, the discharge occurred for 30 to 45 minutes at a rate of 1500 gpm. The discoloration in the stream results in a negative impact on the National Forest and the public.**

B. HINDRANCE VIOLATION (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 _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 32

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 Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 25

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, "The operator or mine personnel were aware. They planned to increase the mine discharge flow and had back flushed the line into the mine prior to the increased discharge. The citizen who spoke with the mine personnel was told that the discharge was supposed to be diverted to the sediment pond to prevent pollution to the stream, but the mine personnel responsible for the discharge took a short cut and diverted the discharge directly into Eccles creek. This individual told the citizen that the responsible employee had been in trouble before for taking shortcuts".**
The permittee was also in violation of section 4.11.8 of their MRP (Underground Water Treatment) "Underground water is permitted to be pumped directly into Eccles creek...when discharge parameters are met". DOGM has previously cited this violation. NOV 10028 was issued on 8/13/2008, vacated by the Division director on 11/12/2008. Coal fines were discharged into Eccles creek three times over a one week period. The NOV was issued after the third discharge. The first two discharges occurred on 8/7/2008.

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

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	

X 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

X Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)
 X Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)
 X 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, The permittee attended a meeting with DWR, DOGM and the Forest Services' Biologists to determine what measures would be required in order to abate the violation. There were no abatement measures required as a result of the iron exceedance discharge.*

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*****According to the information in the inspector statement, there were no abatement measures required in order to abate the violation.**

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 21182	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>32</u>
III. TOTAL NEGLIGENCE POINTS	<u>25</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
TOTAL ASSESSED POINTS	<u>57</u>
TOTAL ASSESSED FINE	<u>\$ 4070</u>