



State of Utah

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Department of Natural Resources
Division of Oil, Gas and Mining

BRIAN C. STEED
Executive Director

JOHN R. BAZA
Division Director

October 22, 2021

CERTIFIED RETURN RECEIPT

Elliot Finley, Resident Agent
Hiawatha Coal Company
P.O. Box 1240
Huntington, Utah 84528

Subject: Proposed Assessment for State Violation No. 21232, Hiawatha Coal Company (HCC), Hiawatha Mine, C/007/0011, Task #6422

Dear Mr. Finley:

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, **Kendra Hinton**, on October 4, 2021. 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 of \$418.00 to the Division, mail c/o Suzanne Steab.

Sincerely,



Wayne H. Western
Assessment Officer

Enclosure

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

COMPANY/MINE	Hiawatha Coal Company Inc./Hiwatha Mine	PERMIT#	C/007/0011	NOV/CO#	NOV-21232
ASSESSMENT DATE		ASSESSMENT OFFICER	Wayne H. Western		

I. HISTORY (Maximum 25 Points)

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
None		

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 EVENT or B HINDRANCE)

NOTE: For assignment of points in Parts II or III, the following apply:

- Based on facts supplied by the Inspector, the Assessment Officer will determine within each category where the violation falls.
- 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.

A. EVENT VIOLATION (Maximum 45 Points)

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?

PROBABILITY	RANGE
None	0
Unlikely	1 - 9
Likely	10 - 19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

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

PROVIDE AN EXPLANATION OF POINTS:

B. HINDRANCE VIOLATION (Maximum 25 Points)

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

12

PROVIDE AN EXPLANATION OF POINTS:

The main reason for water monitoring is to determine if there was an event that exceeded limits. In addition, water monitoring data is also used to determine if there is an increase of materials that are of concern. Early deduction of those materials can be used to locate potential problems and implement proactive measures.

TOTAL SERIOUSNESS POINTS (A or B)

12

III. NEGLIGENCE (Maximum 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
Greater Degree of Fault	16 - 30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS

7

PROVIDE AN EXPLANATION OF POINTS:

The Operator knew or should have known that water monitoring must take place every quarter.

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 RANGE

Normal Compliance 0

Operator complied within the abatement period required.

Operator complied with condition and/or terms of approved MRP.

Rapid Compliance -1 to -10

Permittee used diligence to abate the violation.

Immediate Compliance -11 to -20*

Immediately following the issuance of the NOV)

**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 RANGE

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 the conditions and/or terms of approved MRP.

Normal Compliance -1 to -10*

Operator complied within the abatement period required.

Rapid Compliance -11 to -20*

Permittee used diligence to abate the violation.

**Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.*

EASY OR DIFFICULT ABATEMENT?

ASSIGN GOOD FAITH POINTS

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION #	<input type="text" value="NOV-21232"/>
I. TOTAL HISTORY POINTS	<input type="text" value="0"/>
II. TOTAL SERIOUSNESS POINTS	<input type="text" value="12"/>
III. TOTAL NEGLIGENCE POINTS	<input type="text" value="7"/>
IV. TOTAL GOOD FAITH POINTS	<input type="text" value="0"/>
TOTAL ASSESSED POINTS	<input type="text" value="19"/>
TOTAL ASSESSED FINE	\$ <input type="text" value="418"/>

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Sent To Elliot Finley Hiawatha Coal
Street, Apt. No.,
or PO Box No. PO BOX 1240
City, State, ZIP+4 Huntington UT 84528

PS Form 3800, August 2006

See Reverse for Instructions