

Outgoing
C0070013
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas & Mining

JON M. HUNTSMAN, JR.
Governor
GARY R. HERBERT
Lieutenant Governor

MICHAEL R. STYLER
Executive Director JOHN R. BAZA
Division Director

August 2, 2010

CERTIFIED RETURN RECEIPT
7003 2260 0002 0247 7877

Jay Marshall
Utah American Energy, Inc.
P. O. Box 910
East Carbon, Utah 84520-0910

Subject: Proposed Assessment for State Violation No. N 10058, Utah American Energy Inc., Lila Canyon Mine, C/007/0013, Outgoing File

Dear Mr. Marshall:

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, Pete Hess, on June 30, 2010. 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.

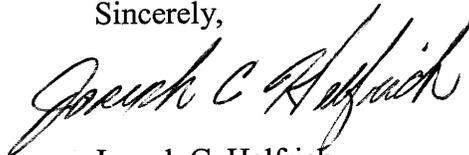
Under R645-401-700, there are two informal appeal options available to you:

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.

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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

JCH/sqs
Enclosure

cc: OSM Compliance Report
Suzanne Steab, DOGM
Vicki Bailey, DOGM
Price Field Office

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 Street, Apt. No.,
 or PO Box No. PO Box 910
 City, State, ZIP+4 East Carbon UT 84520-0110

PS Form 3800, June 2002 See Reverse for Instructions

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

COMPANY / MINE Utah American Energy Inc. Lila Canyon mine

PERMIT C/007/0013

NOV / CO # N 10058

VIOLATION 1 of 1

ASSESSMENT DATE August 2, 2010

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?

According to the inspector statement "The Permittee failed to meet the Performance Standard for the maintenance of the ditch identified as DD-20 on Plate 7-5, proposed Sediment Control".

Conducting activities without appropriate approvals and 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 20

PROVIDE AN EXPLANATION OF POINTS:

*****According to the inspector statement "The permittee's resident agent, a construction contractor graded the adjacent road on the East side of the topsoil storage area, pushing material into the ditch. There was so much material pushed into the ditch that it was not visible."**

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:

***** According to the inspector statement "No damage occurred as a result of the violation."**

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 0

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 20

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 _____

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*** According to the information in the inspector statement, "The permittee was informed during a previous inspection that the ditch needed to be returned to the specification established in the MRP. The problem was again identified on 6/23/2010. The Division informed the permittee on 6/28/2010 that a violation was to be issued, following the inspector's chance to review the MRP chapter 7 information. The permittee had the ditch cleaned and restored to the design specification between 6/28 and 6/30".

UEI is aware of the requirement to trap and retain sediment in disturbed areas. However, mine waste at the angle of repose spread out onto adjacent undisturbed islands.

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

ASSIGN GOOD FAITH POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

****The permittee exercised diligence in abating the violation.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 10058

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>30</u>

TOTAL ASSESSED FINE \$ 1100