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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

C0070013
Outgoing
4375
R

July 29, 2013

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 7036

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

Subject: Proposed Assessment for State Violation No. 10130, Horse Canyon Mine, C/007/0013,
Task ID #4375

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 Joe Helfrich, on June 26, 2013. 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.

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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(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,



Daron R. Haddock
Assessment Officer

DRH/ss
Enclosure
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UtahAmerican Energy, Inc.
Street or PO **P.O. Box 910**
City **East Carbon, UT 84520-0910**

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. PERMIT# C/007/013 NOV/CO# 10130
 ASSESSMENT DATE 7/29/2013 ASSESSMENT OFFICER Daron R. Haddock

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
NOV #10122	5/29/2013	1

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 1

II. SERIOUSNESS (Either A EVENT or B HINDRANCE)

NOTE: For assignment of points in Parts II or 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.

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 0

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

0

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

13

PROVIDE AN EXPLANATION OF POINTS:

The Permittee failed to provide the required survey data of an active Golden Eagle nest. Because the survey was not conducted the Division Inspector was hindered from determining whether or not a take had occurred with respect to the nest which was within 1/2 mile of the active mining operations. While one survey had been completed to determine that 2 birds had hatched, a second survey was not done so the disposition of the hatchlings is unknown. Since only half of the required work was done, it was felt that Hindrance points in the mid part of the range are appropriate.

TOTAL SERIOUSNESS POINTS (A or B)

13

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

8

PROVIDE AN EXPLANATION OF POINTS:

It is felt that the Operator was negligent in not conducting adequate raptor surveys. The Operator had the time and resources available to conduct the required survey, but did not get the job done. A prudent Operator would have been aware of the need to conduct the second survey. This indicates the Operator's lack of deligence rather than a disregard for the rules. Points are assigned in the middle of the Negligence range.

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:

No abatement possible, since it is after the fact.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION #

I. TOTAL HISTORY POINTS

II. TOTAL SERIOUSNESS POINTS

III. TOTAL NEGLIGENCE POINTS

IV. TOTAL GOOD FAITH POINTS

TOTAL ASSESSED POINTS

TOTAL ASSESSED FINE \$