



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

Michael O. Leavitt
Governor
Lowell P. Braxton
Division Director

November 4, 1998

CERTIFIED RETURN RECEIPT
P 074 978 501

Chris Hansen, Environmental Manager
Canyon Fuel Company, LLC
H.C. 35 Box 380
Helper, Utah 84526

Re: Proposed Assessment for State Violation No. N98-47-1-1, Mountain Coal Company, Gordon Creek #2, #7, & #8, ACT/007/016, Folder #5, Carbon County, Utah

Dear Mr. Hansen:

The undersigned has been appointed by the Division of Oil, Gas and 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 Dave Darby on October 14, 1998. 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 the 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 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 30 days of receipt of this letter. If

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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 Vicki Bailey.

Sincerely,



Pamela Grubaugh-Littig
Assessment Officer

blb
Enclosure
cc: James Fulton, OSM
Vicki Bailey, DOGM
O:\007016.GC2\ASSESMNT\9847-1-1.LTR

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

COMPANY/MINE Mountain Coal Company/ Gordon Creek #2, #7, & #8 NOV# N98-47-1-1

PERMIT ACT/007/016 VIOLATION 1 OF 1

ASSESSMENT DATE 11/04/98 ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 POINTS

A. Are there previous violations, which are not pending or vacated, which fall within 1 year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one 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:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the point 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 POINTS

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

* Loss of reclamation/ revegetation potential

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 15

PROVIDE AN EXPLANATION OF POINTS:

Loss of reclamation for at least one year was caused by the amount of grading that occurred, i.e, the whole surface of the access road was smoothed and material cast which broke down the fence. Gouged areas on the #2 mine pad that ran along the undisturbed channels as well as the reclamation access road were smoothed. Material had been pushed into the undisturbed channels. Roads were graded across channels which removed and/or covered riprap.

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 8

PROVIDE AN EXPLANATION OF POINTS:

The damage was the loss of reclamation, at least one years worth.

B. HINDRANCE VIOLATION MAX 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

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A OR B) 23

III. NEGLIGENCE MAX 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 Negligence

ASSIGN NEGLIGENCE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

The inspector met with the permittee prior to the regrading work requested by the landowner. Due to lack of supervision, the regrading work was unacceptable.

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

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 conditions and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or 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?

IN 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

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

This violation has not been terminated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION	<u>N98-47-1-1</u>
I. TOTAL HISTORY POINTS:	<u>0</u>
II. TOTAL SERIOUSNESS POINTS:	<u>23</u>
III. TOTAL NEGLIGENCE POINTS:	<u>13</u>
IV. TOTAL GOOD FAITH POINTS:	<u>0</u>
TOTAL ASSESSED POINTS:	<u>36</u>
TOTAL ASSESSED FINE:	<u>\$520.00</u>

1. SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
 2. Return your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered and the date of delivery. For additional fees the following services are available. Consult postmaster for rates and check box(es) for additional services requested.
 3. Show to whom delivered, date, and addressee's address.

4. Article Addressed to:
 CHRIS HANSEN
 CANYON FUEL COMPANY
 HC 35 BOX 380
 HELPER UT 84526

5. Signature - Address
 X

6. Signature - Agent
 X *Karl Kelley*

7. Date of Delivery
 NOV 10 1988

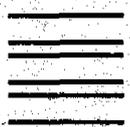
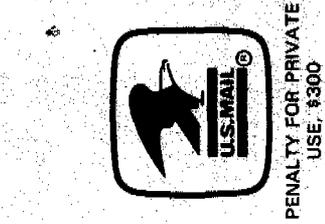
8. Article Number
 P 074 978 501

9. Type of Service:
 Registered
 Certified
 Insured
 COD
 Express Mail
 Return Receipt for Merchandise

10. Address and DATE DELIVERED.
 Always obtain signature of addressee or agent and DATE DELIVERED.

11. Addressee's Address (ONLY if requested and fee paid)

12. U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT



UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS
SENDER INSTRUCTIONS
 Print your name, address and ZIP Code in the space below.
 • Complete items 1, 2, 3, and 4 on the reverse.
 • Attach to front of article if space permits, otherwise affix to back of article.
 • Endorse article "Return Receipt Requested" adjacent to number.

Print Sender's name, address, and ZIP Code in the space below.

RETURN TO

DIVISION OF OIL, GAS & MINING
 1594 W NO TEMPLE STE1210
 SLC UT 84114
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