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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
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Salt Lake City, Utah 84180-1203
801-538-5340

March 8, 1991

CERTIFIED RETURN RECEIPT
P 074 979 034

Mr. Rick Olsen, President
Soldier Creek Coal Company
P.O. Box I
Price, Utah 84501

Dear Mr. Olsen:

Re: Proposed Assessment for State Violation No. N91-37-1-3, Soldier Canyon Mine, ACT/007/018, Folder #5, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Priscilla Burton on January 30, 1991. Rule R614-401 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.

Within 15 days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty.

If a timely request is not made, 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,

Joseph C. Helfrich
Assessment Officer

Enclosure

an equal opportunity employer

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Soldier Creek Coal Co/Soldier Canyon NOV # N91-37-1-3

PERMIT # ACT/007/018 VIOLATION 1 OF 3

ASSESSMENT DATE 3/4/91 ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

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

ASSESSMENT DATE 3/4/91 EFFECTIVE ONE YEAR TO DATE 3/4/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-27-6-1	08/19/90	1
N90-28-5-1	11/28/90	1

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 2

II. SERIOUSNESS (either A or B)

NOTE: **For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which 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 Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent? Activity outside the disturbed area and reduced establishment of a permanent, diverse and effective vegetative cover.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

See attached sheet.

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

Minimal

B. Hindrance Violations MAX 25 PTS

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) ___

INSPECTOR'S STATEMENT

SOLDIER CREEK COAL CO.
ACT/007/018

N.O.V. 91-37-1-3
VIOLATION 1 OF 3

EVENT VIOLATION

A. Seriousness

1. a. **Activity outside the approved disturbed area.**
The operator must indicate the area of disturbance with perimeter markers. The operators employees must be aware of the approved area of disturbance and operate only within those boundaries.

1. h. **Reduced establishment of a permanent, diverse and effective vegetative cover.**
Construction activities that occur outside of the approved area result in a disturbance for which the operator is not commited to reclaim.

2. **The event described in 1.a. occured.**
The approved Map 4.2-6 delineates the extent of disturbance to the stream channel during the culvert extension activities. On the West side of the stream the map indicates that the disturbance will be 37.5 feet down slope from the REI access road at the farthest point and, immediately adjacent to the REI access road at the site of equipment entry.

On the East side of the stream, the map indicated that the disturbance would affect 25 feet of the buffer zone.

Actual disturbance on both east and west sides of the stream took in all of the buffer zone. On the east bank, cuts went above the buffer zone.

An area on the streambank off the REI access road (by mine water discharge #2) was also disturbed by construction equipment. The operator placed responsibility for this disturbance on REI. However, a representative of REI (Mr. Jim Cooper) was contacted and stated that they had not used this road since November or December when a new compressor was hauled to their installation. This activity would not have required any disturbance off the access road.

The event described in 1.h. may be averted if the operator takes responsibility for the areas affected by construction and delineates the approved area of disturbance with perimeter markers.

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 - NEGLIGENCE;
OR Was this violation the result of reckless, knowing, or intentional conduct? 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 10

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care with respect to DOGM regulations pertinent to permitting as well as on sight performance standards.

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
. . . **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 in 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

. . . **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, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? ____ **ASSIGN GOOD FAITH POINTS** 0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N91-37-1-3 1/3

I.	TOTAL HISTORY POINTS	2
II.	TOTAL SERIOUSNESS POINTS	28
III.	TOTAL NEGLIGENCE POINTS	10
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	40
	TOTAL ASSESSED FINE	$600.00

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WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Soldier Creek Coal Co./Soldier Canyon NOV # N91-37-1-3

PERMIT # ACT/007/018 VIOLATION 2 OF 3

ASSESSMENT DATE 3/4/91 ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

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

ASSESSMENT DATE 3/4/91 EFFECTIVE ONE YEAR TO DATE 3/4/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-27-6-1	08/19/90	1
N90-28-5-1	11/28/90	1

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 2

II. SERIOUSNESS (either A or B)

NOTE: **For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which 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 Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Conducting activites without appropriate approvals.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

Inspector's Statement revealed that there was an accumulation of waste rock on the pad above the original culvert extention within alternative sediment control area #5.

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

Although very minimal, the extent of damage would extend off the disturbed area.

B. Hindrance Violations MAX 25 PTS

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) ____

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 - **NEGLIGENCE;**
OR Was this violation the result of reckless, knowing, or intentional conduct? 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 22

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the violation occurred as a result of lack of reasonable care with respect to DOGM regulations, the operator was in violation of a specific permit condition (page 4-31 section 4.2) and the violation had been previously sighted to the permittee (NOV #N82-5-1-5) thus a greater degree of negligence is assessed at 22 points.

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
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 in 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

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, or the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? ____ ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS

Permittee used diligence to abate the violation.

V. ASSESSMENT SUMMARY FOR N91-37-1-3 2/3

I.	TOTAL HISTORY POINTS	2
II.	TOTAL SERIOUSNESS POINTS	28
III.	TOTAL NEGLIGENCE POINTS	22
IV.	TOTAL GOOD FAITH POINTS	-15
	TOTAL ASSESSED POINTS	37
	TOTAL ASSESSED FINE	$540.00

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WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Soldier Creek Coal Co/Soldier Canyon NOV # N91-37-1-3

PERMIT # ACT/007/018 VIOLATION 3 OF 3

ASSESSMENT DATE 3/4/91 ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

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

ASSESSMENT DATE 3/4/91 EFFECTIVE ONE YEAR TO DATE 3/4/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-27-6-1	08/19/90	1
N90-28-5-1	11/28/90	1

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 2

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which 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 Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent? Loss of reclamation/revegetation potential and reduced establishment of a permanent, diverse and effective vegetative cover.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Occurred

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that excavated material from the culvert extension was stockpiled within the disturbed area. No measures were taken to identify the material or provide protection measures.

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 Violations MAX 25 PTS

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) 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 - NEGLIGENCE;**
OR Was this violation the result of reckless, knowing, or intentional conduct? **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 20

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to DOGM regulations and the violation of a specific permit condition.

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
. . . **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 in 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
. . . 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, or the plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult ASSIGN GOOD FAITH POINTS -12

PROVIDE AN EXPLANATION OF POINTS

Permittee used diligence to abate the violation.

V. ASSESSMENT SUMMARY FOR N91-37-1-3 3/3

I.	TOTAL HISTORY POINTS	2
II.	TOTAL SERIOUSNESS POINTS	20
III.	TOTAL NEGLIGENCE POINTS	20
IV.	TOTAL GOOD FAITH POINTS	-12
	TOTAL ASSESSED POINTS	30
	TOTAL ASSESSED FINE	$400.00

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