

0007



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

Mine File

Michael O. Leavitt  
Governor  
Ted Stewart  
Executive Director  
James W. Carter  
Division Director

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

November 21, 1997

CERTIFIED RETURN RECEIPT REQUESTED  
No. P 074 976 882

Vicky S. Bailey  
Earthfax Engineering  
7324 South Union Park Avenue  
Midvale, Utah 84047

Re: Findings of Fact, Conclusions of Law and Order and Finalized Assessment for  
Notice of Violation (NOV) N97-26-5-1, ACT/007/020, Horizon Coal Corporation, Horizon  
Mine, Folder No. 5, Carbon County, Utah

Dear Ms. Bailey:

On November 14, 1997, an Assessment Conference was held to review state violation N97-26-5-1, Horizon Mine, Horizon Coal Corporation. As a result of a review of all pertinent data and facts, including those presented in the Assessment Conference, the following shall constitute the findings of fact, and finalized assessment.

#### **Fact of Violation**

Notice of Violation N97-26-5-1 (NOV) was written for "failure to maintain the undisturbed diversion culvert in Portal Canyon." The culvert was damaged during portal construction activities, and the damage was noted by Reclamation Specialist Bill Malencik (the inspector) during a routine compliance inspection. Abatement of the NOV occurred in two steps: Temporary diversions were established to provide continuity of undisturbed runoff to the culvert system. The 15' of damaged culvert were replaced per terms and conditions of the Mining and Reclamation Plan. The fact of the violation was not contested.

#### **Findings**

1. The request for an Assessment Conference was made in a timely manner.
2. The Assessment Conference was appropriately noticed.
3. The NOV was expeditiously abated.
4. The NOV was terminated prior to the Assessment Conference.

Page 2  
Vicky Bailey  
ACT/007/020, Horizon Mine  
November 21, 1997

### Assessment Conference

The operator and the Division inspector agreed that interim and final abatement measures were promptly undertaken. The operator asked that good faith points be re-assessed given the prompt achievement of compliance following issuance of the NOV.

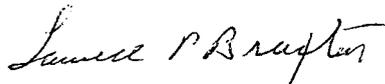
### Finalized Assessment

Total History Points	5	
Total Seriousness Points	23	
Total Negligence Points	8	
Total Good Faith Points	- 9	(increased from -5 due to prompt achievement of compliance)
Total Points	27	
<b>Total Assessed Fine</b>	<b>\$ 340.00</b>	

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, mail c/o Vicki Bailey at the address listed above.

Sincerely,



Lowell P. Braxton  
Assessment Conference Officer

vb  
cc: M. Wright  
P. Grubaugh-Littig  
J. Helfrich  
PFO

P:\GROUPS\MINES\WP\PENALTIE\HOR97265.

PS Form 3811, Mar. 1988 \* U.S. G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

POCM VB ACT/007/020 N97-26-5-1 FLDR #5

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put 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 to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1.  Show to whom delivered; date, and addressee's address. 2.  Restricted Delivery (Extra charge)

3. Article addressed to:  
 VICKY BAILEY  
 EARTHAX ENGINEERING  
 7324 UNION PK AVE  
 MIDVALE UT 84047

4. Article Number  
 P 074 976 882

Type of Service:

Registered     Insured  
 Certified     COD  
 Express Mail     Return Receipt for Merchandise

Always print surname of addressee of agent of ADDRESSEE.

5. Signature - Address  
 X

6. Signature - Agent  
 X *[Signature]*

7. Date of Delivery  
 X *[Signature]*

Address of ADDRESSEE (ONLY if requested and fee paid)  
 BAILEY UN  
 MIDVALE UT 84047