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

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Michael O. Leavitt
Governor

Lowell P. Braxton
Division Director

September 2, 1998

CERTIFIED RETURN RECEIPT
P 230 747 346

Vicky Miller
EarthFax Engineering
18 Maple Street
Helper, Utah 84526

Re: Proposed Assessment for State Violation No. N98-26-4-1, Horizon Mining, LLC,
Horizon Mine, ACT/007/020, Folder #5, Carbon County, Utah

Dear Ms. Miller:

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 William J. Malencik, on August 26, 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:

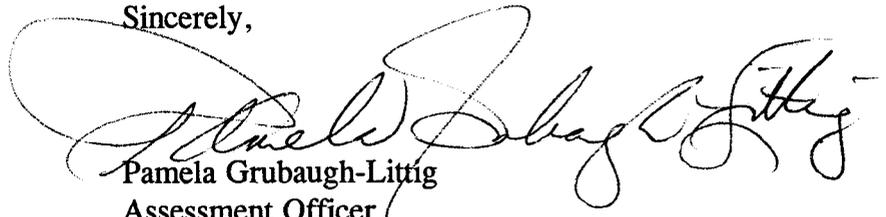
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding 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 you are also requesting a review of the fact of violation, as noted in paragraph

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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

tam
Enclosure

cc: James Fulton, OSM
Vicki Bailey, DOGM

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

COMPANY/MINE Horizon Mining, LLC/ Horizon Mine

NOV# N98-26-4-1

PERMIT ACT/007/020

VIOLATION 1 OF 1

ASSESSMENT DATE 9/1/98

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
<u>N97-45-1-1</u>	<u>02/26/98</u>	<u>1</u>
<u>N97-26-5-1</u>	<u>09/16/97</u>	<u>1</u>
<u>N97-26-7-1</u>	<u>03/04/98</u>	<u>1</u>
<u>N98-26-1-1</u>	<u>03/09/98</u>	<u>1</u>
<u>N98-26-2-1</u>	<u>05/21/98</u>	<u>1</u>
<u>N98-26-3-1</u>	<u>06/10/98</u>	<u>1</u>

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 6

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? A

A. EVENT VIOLATION MAX 45 POINTS

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

Conducting activities without Division approval, i.e., moving ripairan soil to the seeded and vegetated topsoil area.

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

PROVIDE AN EXPLANATION OF POINTS:

According to a memo to file from Acting Director, Lowell P. Braxton dated May 22, 1998, an assessment of 20 points must be assessed. (See attached memo.)

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? EasyASSIGN GOOD FAITH POINTS 0**PROVIDE AN EXPLANATION OF POINTS:**

This violation is not terminated to date.

TM DOC# 9/2/98 ACT/007/020 PROPOSED ASSESSMENT NOS. 26, 4-1

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. (Extra charge)
2. Restricted Delivery (Extra charge)

3. Article Addressed to:
VICKY MILLER
EARTHFAK ENGINEERING
18 MAPLE ST
HELPER UT 84526

4. Article Number
Z 230 747 346

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

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X Vicky D Miller

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

6. Signature - Agent
X

7. Date of Delivery

