



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

Michael O. Leavitt  
Governor  
Kathleen Clarke  
Executive Director  
Lowell P. Braxton  
Division Director

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Salt Lake City, Utah 84114-5801  
801-538-5340  
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801-538-7223 (TDD)

May 27, 1999

CERTIFIED RETURN RECEIPT  
P 074 978 524

Denise Dragoo, Resident Agent  
Horizon Mining, LLC  
c/o Snell & Wilmer, LLP  
111 East Broadway, Suite 900  
Salt Lake City, Utah 84111

Re: Proposed Assessment for State Violation No. N99-26-2-1, Horizon Mining, LLC,  
Horizon Mine, ACT/007/020, Folder #5, Carbon County, Utah

Dear Ms. Dragoo:

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 Division Inspector William J. Malencik, on May 19, 1999. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by your 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:

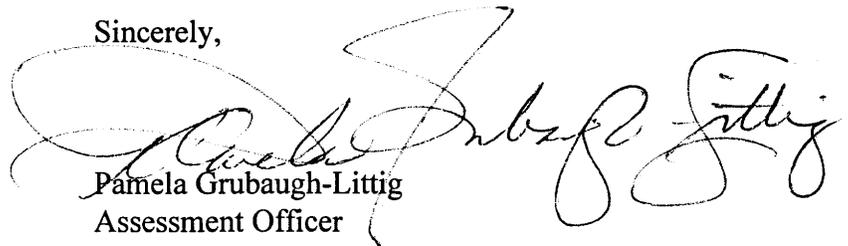
1. If you wish to informally appeal the fact of violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the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

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ACT/007/020  
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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 Tiffini Moss.**

Sincerely,



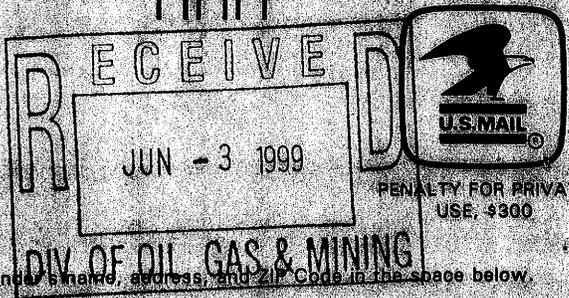
Pamela Grubaugh-Littig  
Assessment Officer

tam  
Enclosure  
cc: James Fulton, OSM  
O:\007020.HZN\ASSESMNT\9926-2-1.LTR

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.

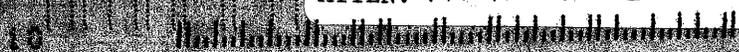


RETURN TO

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

0028

DIVISION OF OIL, GAS & MINING  
1594 W NO TEMPLE STE 1210  
SLC UT 84114  
ATTEN: Tiffini Moss



**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 boxes for additional services requested.

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

3. Article Addressed to:  
DENISE DRAGOO  
SNELL & WILMER, LLP  
111 E BROADWAY STE 900  
SLC UT 84111

4. Article Number  
P 074 978 524

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 - Address  
X

6. Signature - Agent  
X

7. Date of Delivery

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

PS Form 3800, June 1985

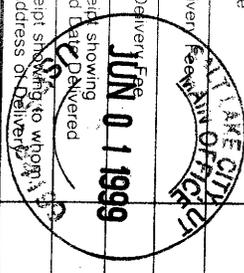
TM 5/27/99 ACT/007/020 Proposed Assessment

PS Form 3800, June 1985

Sent to DENISE DRAGOO	Street and No. 111 E BROADWAY STE 900	P.O., State and ZIP Code SLC UT 84111	Postage \$	Certified Fee \$	Special Delivery Fee \$	Restricted Delivery Fee \$	Return Receipt showing to whom and Date Delivered \$	Return Receipt showing to whom's Date, and Address of Delivery \$	TOTAL Postage and Fees \$	Postmark or Date
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RECEIPT FOR CERTIFIED MAIL  
NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL  
(See Reverse)

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TM DGM 5/27/99 ACT/007/020 PROPOSED ASSESSMENT

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

COMPANY/ MINE Horizon Mining, LLC/ Horizon Mine

NOV # N99-26-2-1

PERMIT ACT/007/020

VIOLATION 1 of 1

ASSESSMENT DATE 5/27/99

ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY (Max. 25 pts.)

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
<u>N98-26-3-1</u>	<u>06/10/98</u>	<u>1</u>
<u>N98-26-4-1</u>	<u>11/03/98</u>	<u>1</u>

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** 2

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category 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.

Is this an EVENT (A) or HINDRANCE (B) violation? B- Hindrance

A. EVENT VIOLATION (Max 45 pts.)

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?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** \_\_\_\_\_

**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** \_\_\_\_\_

**PROVIDE AN EXPLANATION OF POINTS:**

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? Potential  
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS** 10

**PROVIDE AN EXPLANATION OF POINTS:**

There is a potential hindrance to enforcement because there may be water quality problems but it is not known. (Monitoring sites missing and two quarters of water quality data missing.)

**TOTAL SERIOUSNESS POINTS (A or B)** 10

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--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 12

**PROVIDE AN EXPLANATION OF POINTS:**

The permittee failed to provide essential mine sampling locations for the 2nd and 3rd quarter 1998 data, and also failed to submit mine water monitoring for the 4th quarter of 1998 and 1st quarter of 1999.

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

\* 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

- 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:**

Not terminated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION N99-26-2-1	
I. TOTAL HISTORY POINTS	<u>2</u>
II. TOTAL SERIOUSNESS POINTS	<u>10</u>
III. TOTAL NEGLIGENCE POINTS	<u>12</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
TOTAL ASSESSED POINTS	<u>24</u>
<b>TOTAL ASSESSED FINE</b>	<b><u>\$ 280.00</u></b>