



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

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OK

April 24, 2002

CERTIFIED RETURN RECEIPT

7099 3400 0016 8895 9642

David Miller, Business Manager
Lodestar Energy, Inc.
HC 35 Box 370
Helper, Utah 84526

Re: Proposed Assessment for State Cessation Order No. C02-46-1-1, Lodestar Energy, Inc.,
Horizon Mine, C/007/020, Compliance File *Outgoing*

Dear Mr. Miller:

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 cessation order. The written cessation order was issued/terminated by Division Inspector, Peter Hess, on March 18, 2002 (verbally issued on March 15, 2002). 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 this Cessation Order, has been considered in determining the facts surrounding the cessation order and the amount of this 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 Cessation Order, you should file a written request for an Informal Conference within thirty (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 thirty (30) days of receipt of this letter. If 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 the cessation order 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 Vickie Southwick.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pamela Grubaugh-Littig".

Pamela Grubaugh-Littig
Assessment Officer

Enclosure

cc: OSM Compliance Report
Vickie Southwick, DOGM

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

COMPANY / MINE Lodestar Energy, Inc./Horizon Mine PERMIT C/007/020

NOV / CO # C02-46-1-1 VIOLATION 1 of 1

ASSESSMENT DATE April 18, 2002

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
_____	_____	_____
_____	_____	_____

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 0

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 where 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? Event (A)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Impacts off the permit area (activity outside the permit area
/environmental harm

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 20

PROVIDE AN EXPLANATION OF POINTS:

******Mine sludge and coal fines were visible in mine water being discharged from the undisturbed bypass culvert (discharge point, UPDES 002A, which is located 1,020 feet up drainage in Portal Canyon) into Jewkes Creek (off the permit area) on March 15, 2002 during a routine inspection. These coal fines and mine sludge accumulated along the edge of Jewkes Creek. (This activity had been noted by Division of Water Quality on March 12, 2002, but was not reported to the Division of Oil, Gas, and Mining at that time).***

This cessation order was verbally issued on Friday, March 15, 2002 when the Division mine inspector, Pete Hess, noted the problem and terminated when the activity stopped (within 30 minutes of notification). [Note: A written cessation order was issued/terminated on March 18, 2002 (Monday)].

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 10

PROVIDE AN EXPLANATION OF POINTS:

******There was no evidence of a fish kill, per a Division of Wildlife report dated March 22, 2002. There may be potential damage, however, unidentified to date.***

B. HINDRANCE VIOLATION (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) 30

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 Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 25

PROVIDE AN EXPLANATION OF POINTS:

****The permittee pumped directly from the mine section to the outside (which enhanced production). The permittee ceased pumping and corrected underground conditions to resume pumping clear water within 30 minutes of notification.*

This same activity occurred on March 12, 2002, as evidenced by the water monitoring results from Division of Water Quality (300 mg/l TSS) as well as the date of the cessation order. The permittee is fully aware of the UPDES permit and mine pumping ramifications.

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 -18

PROVIDE AN EXPLANATION OF POINTS:

******The permittee immediately (within 30 minutes of notification) discontinued pumping the mine sludge and coal fines by changing the plumbing system in the mine.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION #	<u>C02-46-1-1</u>
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>30</u>
III. TOTAL NEGLIGENCE POINTS	<u>25</u>
IV. TOTAL GOOD FAITH POINTS	<u>-18</u>
TOTAL ASSESSED POINTS	<u>37</u>
TOTAL ASSESSED FINE	<u>\$ 540</u>