

**State of Utah****Department of  
Natural Resources**

MICHAEL R. STYLER  
*Executive Director*

**Division of  
Oil, Gas & Mining**

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

August 14, 2006

CERTIFIED MAIL  
7004 2510 0004 1824 7890

James T. Jensen, Vice President  
Savage Services Corporation  
6340 South 300 East, Suite 600  
Salt Lake City, Utah 84121

Subject: Proposed Assessment for Notice of Violation N06-46-3-1, Savage Services Corporation, Savage Coal Terminal, C/007/0022, Outgoing File

Dear Mr. Jensen:

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, Peter Hess on July 14, 2006. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information that 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.

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 thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or assigned conference officer. 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

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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 violation will stand, the proposed penalty will become final, and the penalty 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 black ink that reads "Daron R. Haddock". The signature is written in a cursive style with a large initial "D".

Daron R. Haddock  
Assessment Officer

sd  
Enclosure  
cc: OSM Compliance Report  
Vickie Southwick, DOGM  
O:\007022.SAV\Compliance\2006\N06-46-3-1assessltr.doc



<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:**

***\*\*\*The permittee initiated construction activities (digging/forming/reinforcing steel placement in footers) for new conveyor foundations without receiving the Division's approval. The inspector indicates that this activity is not approved. The event (conducting activities without appropriate approvals) has actually occurred.***

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:**

***\*\*\*The Inspector indicated that no damage occurred as a result of the violation.***

- B. HINDRANCE VIOLATION (Max 25 pts.)

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

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

ASSIGN HINDRANCE POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\*NA.***

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--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 16

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\*The inspector indicated that the activities of the Operator were knowing and willful. Construction activity proceeded upon the assumption that DOGM approval would be in place on July 15, 2006, even though they knew that approval had not been granted. It appears there was some miscommunication between the consultant and the construction manager about constructing the forms and pouring the concrete. Regardless, a prudent Operator would understand the need to obtain Division approval prior to commencing construction. Because they proceeded without approval, this activity is considered a knowing and willful activity. I am assigning points at the bottom of the greater degree of fault category.***

**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 -5

**PROVIDE AN EXPLANATION OF POINTS:**

*\*\*\*This was considered an easy abatement since no plans were required and the Operator had the resources available for completing the requirements. The abatement required the Operator to recover soil resources from the conveyor footing holes by July 28, 2006. This was actually accomplished within a couple of days of the issuance of the violation (July 14, 2006). This shows that the Operator was diligent in completing this requirement. I am awarding 5 good faith points in the rapid compliance category.*

**V. ASSESSMENT SUMMARY**

NOTICE OF VIOLATION # <u>N06-46-3-1</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>20</u>
III.	TOTAL NEGLIGENCE POINTS <u>16</u>
IV.	TOTAL GOOD FAITH POINTS <u>-5</u>
	TOTAL ASSESSED POINTS <u>31</u>
	<b>TOTAL ASSESSED FINE <u>\$1210.00</u></b>