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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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*mine f.*

October 17, 1990

CERTIFIED RETURN RECEIPT  
P 074 978 776

Mr. Rick Olsen, President  
Soldier Creek Coal Company  
P. O. Box I  
Salina, Utah 84654

Dear Mr. Olsen:

Re: Proposed Assessment for State Violation No. 90-15-1-2,  
Banning Loadout Mine, ACT/007/034, Folder #5, Carbon County,  
Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Office for assessing penalties under R614-401 et seq.

Enclosed are the proposed civil penalty assessments for the above referenced violation. This violation was issued by Division Inspector, Rick Summers on October 4, 1990. Rule UMC/SMC 845.2 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 Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Within 15 days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty.

If a timely request is not made, 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,

A handwritten signature in cursive script, appearing to read 'Joseph C. Helfrich'.  
Joseph C. Helfrich  
Assessment Officer

Enclosure

an equal opportunity employer

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Soldier Creek Coal Company/Banning Siding NOV # 90-15-1-2

PERMIT # ACT/007/034 VIOLATION 1 OF 2

ASSESSMENT DATE 10/17/90 ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 10/17/90 EFFECTIVE ONE YEAR TO DATE 10/17/89

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____

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 0

**II. SERIOUSNESS (either A or B)**

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which 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. Event Violations Max 45 PTS

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

Conducting mining activities without appropriate approvals

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

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

Construction of temporary scales and scale house had been completed at the time of the inspection.

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

No damage occurred as a result of the construction of the scales and the scale house.

B. Hindrance Violations 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) 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 - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to DOGM requirements for approval of construction of mining related facilities.

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

\* Assign in upper or lower half of range depending on abatement occurring in 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, or the plan submitted for abatement was incomplete)  
 (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS  0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N90-15-1-2 #1 of 2</u>
I.	TOTAL HISTORY POINTS	<u> 0 </u>
II.	TOTAL SERIOUSNESS POINTS	<u> 20 </u>
III.	TOTAL NEGLIGENCE POINTS	<u> 15 </u>
IV.	TOTAL GOOD FAITH POINTS	<u> 0 </u>
	TOTAL ASSESSED POINTS	<u> 35 </u>
	TOTAL ASSESSED FINE	<u> \$ 500.00 </u>

WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Soldier Creek Coal Co/Banning Loadout NOV # 90-15-1-2

PERMIT # ACT/007/034 VIOLATION 2 OF 2

ASSESSMENT DATE 10/17/90 ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 10/17/90 EFFECTIVE ONE YEAR TO DATE 10/17/89

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____

1 point for each past violation, up to on year;  
5 points for each past violation in a CO, up to one 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 applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is than an Event (A) or Hindrance (B) violation? Hindrance

A. Event Violations 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? \_\_\_\_\_

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

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

PROVIDE AN EXPLANATION OF POINTS

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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

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B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual

RANGE 0 - 25

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

ASSIGN HINDRANCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

Failing to monitor the ground water station sump at the Loadout site actually hindered the inspector from evaluating compliance and/or potential impacts to the hydrologic regime.

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TOTAL SERIOUSNESS POINTS (A or B) 15

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 - NEGLIGENCE;**  
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to permit conditions.

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

\* Assign in upper or lower half of range depending on abatement occurring in 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, or the plan submitted for abatement was incomplete)  
 (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No abatement required.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N90-15-1-2 #2 of 2</u>
I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>12</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>27</u>
	TOTAL ASSESSED FINE	<u>\$ 340.00</u>