



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

Michael O. Leavitt  
Governor  
Ted Stewart  
Executive Director  
James W. Carter  
Division Director

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3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

March 2, 1995

CERTIFIED RETURN RECEIPT  
P 074 976 172

Rick Olsen President  
Soldier Creek Coal Co  
P. O. Box 1029  
Wellington, Utah 84542

Re: Proposed Assessment for State Violation No. N94-39-5-1, Soldier Creek Coal, Banning Loadout, ACT/007/034 Folder #5, Carbon County, Utah

Dear Mr. Olsen

The undersigned has been appointed by the Board 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, Steve Demczak on November 9, 1994. Rule R645-401-600 et. sec. 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.



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ACT/007/038  
March 2, 1995

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, 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,



Joseph C. Helfrich  
Assessment Officer

blb  
Enclosure  
cc: Donna Griffen, OSM

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

**COMPANY/MINE** Soldier Creek Coal/Banning Loadout

**NOV #** N94-39-5-1

**PERMIT #** ACT/007/034

**VIOLATION** 1 OF 1

**ASSESSMENT DATE** 2/22/95

**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** 2/22/95

**EFFECTIVE ONE YEAR TO DATE** 2/22/94

**PREVIOUS VIOLATIONS**

**EFFECTIVE DATE**

**POINTS**

0

0

0

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? B

**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**   0  

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**   0  

PROVIDE AN EXPLANATION OF POINTS

—

B. Hindrance Violations    MAX 25 PTS

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

RANGE 0 - 25

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

**ASSIGN HINDRANCE POINTS**  12 

PROVIDE AN EXPLANATION OF POINTS

The proper identification sign with the requisite information was not at the main gate from public access.

TOTAL SERIOUSNESS POINTS (A or B) 12

**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 No Negligence.

ASSIGN NEGLIGENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No Negligence occurred as a result of the Violation.

**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** -12

PROVIDE AN EXPLANATION OF POINTS

The Operator had the sign installed the next morning before 8 a.m.

**V. ASSESSMENT SUMMARY FOR \_\_\_\_\_**

|      |                          |                 |
|------|--------------------------|-----------------|
| I.   | TOTAL HISTORY POINTS     | <u>0</u>        |
| II.  | TOTAL SERIOUSNESS POINTS | <u>12</u>       |
| III. | TOTAL NEGLIGENCE POINTS  | <u>0</u>        |
| IV.  | TOTAL GOOD FAITH POINTS  | <u>-12</u>      |
|      | TOTAL ASSESSED POINTS    | <u>0</u>        |
|      | TOTAL ASSESSED FINE      | <u>\$ 00.00</u> |

blb



UTAH NATURAL RESOURCES Oil, Gas & Mining

3 Trad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

|       |     |         |       |            |   |
|-------|-----|---------|-------|------------|---|
| To    | Joe | From    | Steph | # of pages | 1 |
| Co.   |     | Co.     |       |            |   |
| Dept. |     | Phone # |       |            |   |
| Fax # |     | Fax #   |       |            |   |

### VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name Soldier Creek Coal Co.

Mailing Address P.O. Box 1, Price Utah 84501

State Permit No. ACT/007/034

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated (1953)*:

Notice of Violation No. N 94-39-5-1 dated November 9, 19 94

Cessation Order No. C \_\_\_\_\_ dated \_\_\_\_\_, 19 \_\_\_\_\_

Part 1 of 1 is  vacated  terminated because identification sign is installed.

Part \_\_\_\_\_ of \_\_\_\_\_ is  vacated  terminated because \_\_\_\_\_

Part \_\_\_\_\_ of \_\_\_\_\_ is  vacated  terminated because \_\_\_\_\_

Date of ~~mailing~~ mailing November 9, 1994

Time of ~~service~~ mailing 12:00  a.m.  p.m.

Dave Spillman  
Permittee/Operator representative

Engineer  
Title

mailed from PFO  
Signature

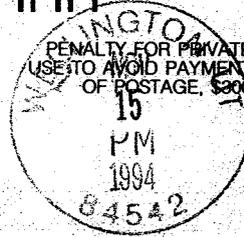
Stephen J. Demczak  
Division of Oil, Gas & Mining

Reclamation Specialist  
Title

Signature

UNITED STATES POSTAL SERVICE

Official Business



Print your name, address and ZIP Code here  
• Mary Beth Mortensen •

STATE OF UTAH  
NATURAL RESOURCES  
OIL, GAS & MINING  
3 TRIAD CENTER, SUITE 350  
SALT LAKE CITY, UTAH 84103-1203

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
 Soldier Creek Coal Co.  
 P. O. Box I  
 Price, Utah 84501

4a. Article Number  
 P 734 906 868

4b. Service Type  
 Registered  Insured  
 Certified  COD  
 Express Mail  Return Receipt for Merchandise

7. Date of Delivery  
 11-15-94

5. Signature (Addressee)

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

6. Signature (Agent)

Thank you for using Return Receipt Service.



notice of violation

NO. N 94-39-5-1

To the following Permittee or Operator:

Name ## Soldier Creek Coal Co.

Mine Banning Loadout  Surface  Underground  Other

County Carbon State Utah Telephone (801) 637-6360

Mailing Address P.O. Box 1, Price Utah 84501

State Permit No. ACT/007/034

Ownership Category  State  Federal  Fee  Mixed

Date of inspection November 8, 1994, 19    

Time of inspection 8:00  a.m.  p.m. to 2:30  a.m.  p.m.

Operator Name (other than Permittee) \_\_\_\_\_

Mailing Address \_\_\_\_\_

Under authority of the Utah Coal Mining and Reclamation Act, Section 40-10-1 et seq., *Utah Code Annotated*, 1953, the undersigned authorized representative of the Division of Oil, Gas & Mining has conducted an inspection of above mine on above date and has found violation(s) of the act, regulations or required permit condition(s) listed in attachment(s). This notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violations within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that **cessation of mining is**  **is not**  expressly or in practical effect required by this notice. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This notice shall remain in effect until it expires as provided on reverse side of this form, or is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas & Mining. Time for abatement may be extended by authorized representative for good cause, if a request is made within a reasonable time before the end of abatement period.

Certified Mail P 734 906 868

Date of service/ mailing November 9, 1994 Time of service/ mailing 12:00  a.m.  p.m.

Dave Spillman Engineer  
Permittee/Operator representative Title

mailed from PFO  
Signature

Stephen J. Demczak Reclamation Specialist  
Division of Oil, Gas & Mining representative Title

[Signature] #39  
Signature Identification Number

SEE REVERSE SIDE

WHITE-DOGM YELLOW-OPERATOR PINK-OSM GOLDENROD-NOV FILE



**NOTICE OF VIOLATION NO. N** 94-39-5-1

Violation No. 1 of 1

Nature of violation

Failure to have identification sign at gate to access permit area from public road.

Provisions of act, regulations or permit violated

R645-301-521.241

Portion of operation to which notice applies

Main gate to Banning Loadout.

Remedial action required (including any interim steps)

Install I.D. sign.

Abatement time (including interim steps)

Install sign by November 10, 1994.

gch

COMPANY/MINE BANNING LOADOUT NOV/CO #94-39-5-1

PERMIT # ACT/007/034 VIOLATION # 1 OF 1

**HINDRANCE TO ENFORCEMENT VIOLATIONS INSPECTOR'S STATEMENT**

A. Hindrance To Enforcement (Answer for hindrance violations only such as violations concerning record keeping, monitoring, plans and certification.)

1. Describe how violation of this regulation actually x or potentially     (check one) hindered enforcement by DOGM and/or the public and explain the circumstances.

\*\*The I.D. sign was not at the main gate from public access.

B. Degree Of Fault (Only one question applies to each violation, check and discuss.)

( x ) No Negligence  
If you think this violation was not the fault of the operator (due to vandalism or an act of God), explain. Remember the permittee is considered responsible for actions of all persons working on the mine site.

\*\*The I.D. sign had been attached to the gate for years.

- VANDALISM.....

(     ) Ordinary Negligence  
If you think this violation was a result of not knowing DOGM regulations, indifference to DOGM regulations or the lack of diligence or reasonable care. Explain.

(     ) Recklessness  
If the actual or potential environmental harm or harm to the public should have been evident to an operator, describe the situation and what if anything, the operator did to correct it prior to being cited.

COMPANY/MINE BANNING LOADOUT NOV/CO # 94-39-5-1

PERMIT # ACT/007/034 VIOLATION # 1 OF 1

(    ) Knowing and Willful Conduct  
Was the operator in violation of a specific permit condition? Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation? Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Good Faith

1. In order to receive good faith for compliance with an NOV or CO the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

\*\*The operator had the sign installed the next morning before 8:00 a.m. Maximum points should be given.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

\*\*The I.D. sign was at the mine site and brought to Banning Loadout site and installed.

3. Was the submission of plans prior to physical activity required by this NOV? Yes      No   x   If yes, explain.

11/09/94  
DATE

  
AUTHORIZED REPRESENTATIVE