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

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February 2, 1999

CERTIFIED RETURN RECEIPT
P 074 978 518

Rick Olsen, General Manager
Canyon Fuel Company, LLC
P. O. Box 1029
Wellington, Utah 84542

Re: Proposed Assessment for State Violation No. N99-39-2-1, Canyon Fuel Company, LLC, Dugout Canyon Mine, ACT/007/039, Folder #5, Carbon County, Utah

Dear Mr. Olsen:

The undersigned has been appointed by the Division 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 Stephen J. Demczak, on January 26, 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 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.

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,

Pamela Grubaugh-Littig
Assessment Officer

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Enclosure
cc: James Fulton, OSM
Vicki Bailey, DOGM
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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS, & MINING

COMPANY/MINE Canyon Fuel Company, LLC/ Dugout Canyon Mine NOV# N99-39-2-1

PERMIT ACT/007/039 VIOLATION 1 OF 1

ASSESSMENT DATE February 1, 1999 ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 POINTS

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

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N98-39-4-1	11/23/98	1
N98-39-5-1	01/05/99	1

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 2

II. SERIOUSNESS (EITHER A OR B)

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

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the point up or down, utilizing the inspector's and operator's statements as guiding documents.

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

A. EVENT VIOLATION MAX 45 POINTS

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

Conducting mining related activities outside the permit area.

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:

The permittee conducted mining related activities outside the permit area. The permittee trucked a combination of snow and spoil material to a non-permitted site outside the permit area.

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. The snow and spoil material were reloaded back into the trucks within a hour of dumping outside the permit area. The spoil and snow were dumped inside the "approved" permit area with the disturbed area.

B. HINDRANCE VIOLATION MAX 25 POINTS

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 POINTS

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 _

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

The permittee disposed of material in an "immediate" manner without approving a site within the permit area.

IV. GOOD FAITH MAX 20 POINTS
(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 withing 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 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?
IN 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 -9

PROVIDE AN EXPLANATION OF POINTS:

The permittee removed the material outside the permit area and returned it to the Dugout Canyon Mine permit area within an hour because the trucks and loaders were already there.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION		N99-39-2-1
I.	TOTAL HISTORY POINTS:	2
II.	TOTAL SERIOUSNESS POINTS:	20
III.	TOTAL NEGLIGENCE POINTS:	15
IV.	TOTAL GOOD FAITH POINTS:	-9
	TOTAL ASSESSED POINTS:	28
	TOTAL ASSESSED FINE:	**$360.00**

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