

C/007/042 Incoming
cc: Karl



Sunnyside Cogeneration Associates

P.O. Box 10, East Carbon, Utah 84520 • (435) 888-4476 • Fax (435) 888-2538

July 9, 2014

Daron Haddock
Utah Division of Oil, Gas & Mining
1594 W. North Temple, Suite 1210
Salt Lake City, Utah 84116

RE: 2nd Quarter 2014 Inspection Report
Star Point Refuse Pile C/007/042

RECEIVED

JUL 11 2014

DIV. OF OIL, GAS & MINING

Dear Daron:

Please find enclosed a copy of the Second Quarter 2014 Inspection Report for the Star Point refuse pile, impoundments, and excess spoil area.

Should you have any questions, please contact Rusty Netz or myself at (435)888-4476.

Thank You,

A handwritten signature in black ink, appearing to read "Gerald Hascall". The signature is fluid and cursive.

Gerald Hascall
Agent For
Sunnyside Cogeneration Associates

c.c. Rusty Netz
Plant File

QUARTERLY INSPECTION FORM – IMPOUNDMENT

Permit Number: C/007/042
Mine Name: Star Point Waste Fuel
Mine Operator (Permittee): Sunnyside Cogeneration Associates
MSHA ID Number: N/A
Impoundment Name: Sediment Pond #005
UPDES Permit Number: UTG040025

Inspection Date: June 26, 2014
Second Quarter 2014
Inspector: Rusty Netz
Signature: *Rusty Netz*

IMPOUNDMENT INSPECTION

1. Describe any appearance of any instability, structural weakness, or any other hazardous condition.

None

a. Sediment storage capacity, including elevation of 60% and 100% sediment storage volumes, and estimated average elevation of existing sediment.

Total Pond Volume = 6.96 Acre-feet
Pond bottom elevation = 7387.3
100% Sediment Storage Volume = 2.42 acre-feet at Elevation 7394.9
60% sediment Storage Volume = 1.45 acre feet at Elevation = 7393
Existing Average Sediment Elevation = 7390 +/-

b. Principle and emergency spillway elevations.

Primary Dewatering Orifice = 7394.9
Emergency Spillway Elevation = 7401.3

2. Field Information

Provide current water elevation, whether pond is discharging, type and number of samples taken, monitoring/ instrumentation information, inlet/ outlet conditions, or other related activities associated with the pond including but not limited to sediment cleanout, pond decanting, embankment erosion/ repairs, monitoring information, vegetation on out slopes of embankments, etc.

Pond had no water. No samples were taken
Sediment levels were reasonably low. Pond did not require decanting.
Embankment conditions were good. Vegetation on out slopes was adequate.
Inlet / Outlet conditions were good. No structural or hazardous conditions were observed.

3. Field Evaluation.

Describe any changes in the geometry of the impounding structure, average and maximum depths and elevation of impounded water, estimated sediment or slurry volume and remaining storage capacity, estimated volume of water impounded, and any other aspect of the impounding structure affecting its stability or function which has occurred during the reporting period

No recent changes in the geometry of the structure have been observed
No water was impounded
Sediment level was good.
No other aspects were observed to affect stability or functionality.

QUARTERLY INSPECTION FORM – IMPOUNDMENT

Sediment Pond 005

**CERTIFIED REPORT
IMPOUNDMENT EVALUATION**

If you answer NO to these questions, please explain under comments

- 1. Is impoundment designed and constructed in accordance with the approved plan? YES
- 2. Is impoundment free of instability, structural weakness, or any other hazardous conditions? YES
- 3. Has the impoundment met all applicable performance standards and effluent limitations from the previous date of inspection? YES

COMMENTS/ OTHER INFORMATION

None

CERTIFICATION STATEMENT:

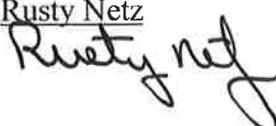
I hereby certify that: I am experienced in the construction of impoundments; I am qualified and authorized in the State of Utah to inspect and certify the condition and appearance of impoundments in accordance with the certified and approved designs for this structure; that the impoundment has been maintained in accordance with approved designs and meets or exceeds the minimum design requirements under all applicable federal, state and local regulations; and that inspections and inspection reports are made by myself or under my direction and include any appearances of instability, structural weakness or other hazardous conditions of the structure affecting stability in accordance with the Utah R645 Coal Mining Rules.

By: S. Scott Carlson, PE, Twin Peaks, P.C.
P.E. Number & State: 187727 UTAH

Affix Signature, Stamp and Date



QUARTERLY INSPECTION FORM – IMPOUNDMENT

Permit Number: C/007/042 Inspection Date: June 26, 2014
Mine Name: Star Point Waste Fuel Second Quarter 2014
Mine Operator (Permittee): Sunnyside Cogeneration Associates Inspector: Rusty Netz
MSHA ID Number: N/A Signature: 
Impoundment Name: Sediment Pond #006
UPDES Permit Number: UTG040025

IMPOUNDMENT INSPECTION

1. Describe any appearance of any instability, structural weakness, or any other hazardous condition.

None

a. Sediment storage capacity, including elevation of 60% and 100% sediment storage volumes, and estimated average elevation of existing sediment.

Total Pond Volume = 2.6 Acre-feet
Pond bottom elevation = 7132.7
100% Sediment Storage Volume = 0.76 acre-feet at Elevation 7140.7
60% sediment Storage Volume = 0.45 acre feet at Elevation = 7138.8
Existing Average Sediment Elevation = 7138 +/-

b. Principle and emergency spillway elevations.

Primary Dewatering Orifice = 7140.7
Emergency Spillway Elevation = 7147.2

2. Field Information

Provide current water elevation, whether pond is discharging, type and number of samples taken, monitoring/ instrumentation information, inlet/ outlet conditions, or other related activities associated with the pond including but not limited to sediment cleanout, pond decanting, embankment erosion/ repairs, monitoring information, vegetation on outslopes of embankments, etc.

Pond had no water. No samples were taken
Sediment levels were reasonable. Pond did not require decanting.
Embankment conditions were good. Vegetation on outslopes was adequate.
Inlet / Outlet conditions were good. No structural or hazardous conditions were observed.

3. Field Evaluation.

Describe any changes in the geometry of the impounding structure, average and maximum depths and elevation of impounded water, estimated sediment or slurry volume and remaining storage capacity, estimated volume of water impounded, and any other aspect of the impounding structure affecting its stability or function which has occurred during the reporting period

No recent changes in the geometry of the structure have been observed
No water was impounded
Sediment level was reasonable
No other aspects of the impounding structure were observed that could affect its stability or functionality.

QUARTERLY INSPECTION FORM – IMPOUNDMENT

Sediment Pond 006

**CERTIFIED REPORT
IMPOUNDMENT EVALUATION**

If you answer NO to these questions, please explain under comments

- 1. Is impoundment designed and constructed in accordance with the approved plan? YES
- 2. Is impoundment free of instability, structural weakness, or any other hazardous conditions? YES
- 3. Has the impoundment met all applicable performance standards and effluent limitations from the previous date of inspection? YES

COMMENTS/ OTHER INFORMATION

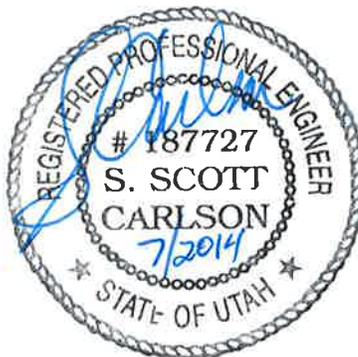
None

CERTIFICATION STATEMENT:

I hereby certify that: I am experienced in the construction of impoundments; I am qualified and authorized in the State of Utah to inspect and certify the condition and appearance of impoundments in accordance with the certified and approved designs for this structure; that the impoundment has been maintained in accordance with approved designs and meets or exceeds the minimum design requirements under all applicable federal, state and local regulations; and that inspections and inspection reports are made by myself or under my direction and include any appearances of instability, structural weakness or other hazardous conditions of the structure affecting stability in accordance with the Utah R645 Coal Mining Rules.

By: S. Scott Carlson, PE, Twin Peaks, P.C.
P.E. Number & State: 187727 UTAH

Affix Signature, Stamp and Date



QUARTERLY INSPECTION FORM – IMPOUNDMENT

Permit Number: C/007/042 Inspection Date: June 26, 2014
Mine Name: Star Point Waste Fuel Second Quarter 2014
Mine Operator (Permittee): Sunnyside Cogeneration Associates Inspector: Rusty Netz
MSHA ID Number: N/A Signature: Rusty Netz
Impoundment Name: Sediment Pond #009
UPDES Permit Number: UTG040025

IMPOUNDMENT INSPECTION

1. Describe any appearance of any instability, structural weakness, or any other hazardous condition.

None

a. Sediment storage capacity, including elevation of 60% and 100% sediment storage volumes, and estimated average elevation of existing sediment.

Total Pond Volume = 7.4 Acre-feet
Pond bottom elevation = 7435.0
100% Sediment Storage Volume = 2.02 acre-feet at Elevation 7439.3
60% sediment Storage Volume = 1.21 acre feet at Elevation = 7437.7
Existing Average Sediment Elevation = 7436 +/-

b. Principle and emergency spillway elevations.

Primary Dewatering Orifice = 7439.8
Primary Spillway Elevation = 7445.5
Emergency Spillway Elevation = 7446.5

2. Field Information

Provide current water elevation, whether pond is discharging, type and number of samples taken, monitoring/ instrumentation information, inlet/ outlet conditions, or other related activities associated with the pond including but not limited to sediment cleanout, pond decanting, embankment erosion/ repairs, monitoring information, vegetation on out slopes of embankments, etc.

Pond had no water. No samples were taken. Pond did not require decanting.
Sediment levels were reasonable.
Embankment conditions were good. Vegetation on out slopes was adequate.
Inlet / Outlet conditions were good. No structural or hazardous conditions were observed.

3. Field Evaluation.

Describe any changes in the geometry of the impounding structure, average and maximum depths and elevation of impounded water, estimated sediment or slurry volume and remaining storage capacity, estimated volume of water impounded, and any other aspect of the impounding structure affecting its stability or function which has occurred during the reporting period

No recent changes in the geometry of the structure have been observed
No water was impounded Sediment level was good.
No other aspects of the impounding structure were observed that could affect its stability or functionality.

QUARTERLY INSPECTION FORM – IMPOUNDMENT

Sediment Pond 009

**CERTIFIED REPORT
IMPOUNDMENT EVALUATION**

If you answer NO to these questions, please explain under comments

- 1. Is impoundment designed and constructed in accordance with the approved plan? YES
- 2. Is impoundment free of instability, structural weakness, or any other hazardous conditions? YES
- 3. Has the impoundment met all applicable performance standards and effluent limitations from the previous date of inspection? YES

COMMENTS/ OTHER INFORMATION

None

CERTIFICATION STATEMENT:

I hereby certify that: I am experienced in the construction of impoundments; I am qualified and authorized in the State of Utah to inspect and certify the condition and appearance of impoundments in accordance with the certified and approved designs for this structure; that the impoundment has been maintained in accordance with approved designs and meets or exceeds the minimum design requirements under all applicable federal, state and local regulations; and that inspections and inspection reports are made by myself or under my direction and include any appearances of instability, structural weakness or other hazardous conditions of the structure affecting stability in accordance with the Utah R645 Coal Mining Rules.

By: S. Scott Carlson, PE, Twin Peaks, P.C.
P.E. Number & State: 187727 UTAH



Affix Signature, Stamp and Date

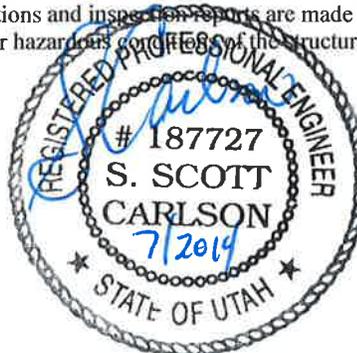
QUARTERLY INSPECTION FORM – REFUSE PILE

Permit Number: C/007/042 Inspection Date: June 26, 2014
 Mine Name: Star Point Waste Fuel Second Quarter 2014
 Mine Operator (Permittee): Sunnyside Cogeneration Associates Inspector: Rusty Netz
 MSHA ID Number: Abandoned by MSHA Jan 2004 Signature: Rusty Netz
 Facility Name: Coarse Refuse Pile

1. Describe any changes in the geometry of the structure (as well as instrumentation, if any, used to monitor changes): **Refuse material is actively being excavated and removed from locations across the top of the pile**
2. Lift Height / Thickness Avg 15 Maximum 25 Elevation of Active Benches: **approximately 7460-7490**
3. Vertical angle of outslope(s) / Location(s) where measured **max 2:1 North, East and South faces**
4. Current estimated volume: **approx 3.0-3.3 Million tons** Volume removed during year: **2013: approx. 356,486 tons**
5. Describe foundation preparation, (including the removal of vegetation, stumps, topsoil, and all organic material): NA
6. Describe Placement and compaction of fill materials (including an explanation of how compaction is confirmed): N/A -
Activities occurring at this time are associated with removal of refuse material
7. Is there any evidence of fires or burning on the structure? (if Yes, specify extent, location, and abatement / extinguishment of such fires): **No evidence of fires observed**
8. Describe placement of underdrains and protective filter systems, and final surface drainage systems (report any seepage, including location, color, flow): **No underdrains exist. Current surface drainage is in place. No seepage is visible**
9. Describe any appearances of instability, structural weakness, and other hazardous conditions **No aspects of the Fill structure were observed that could affect its stability or functionality or which indicated hazardous conditions**
10. Please provide any other information pertaining to the stability of the structure (attach any photos taken during the inspection)
 - a. Are there any cracks or scarps in crest? **NO** none observed
 - b. Is there any detectable sloughing or bulging? **NO** none observed
 - c. Do slope erosion problems exist? **NO** some old erosion gullies exist on the outer slopes, but currently appear stable
 - d. Cracks or scarps in slope? **NO** none observed
 - e. Surface movements? (valley bottom, hillsides) **NO** none observed
 - f. Erosion of Toe? **NO** none observed
 - g. Water impounded by structure? **NO** none observed
 - h. Are diversion ditches stable? **YES** appears reasonable
 - i. Is drainage positive? **YES** surface runoff flows to culverts & ditches.
During the quarter NOV 10139 was received & abated. This NOV pertained to a ditch which had been partially reclaimed but which allowed the non reclaimed portion to discharge water onto the refuse pile. The NOV required the ditch to be restored through the reclaimed area.
 - j. Could failure of structure create an impoundment (provide description)? **No surface water flows exist in the vicinity**
 - k. Are design standards established within the mining and reclamation plan for the disposal facility being met? **Yes**
 - l. Proctor Determination: **none required**

I hereby certify that: I am experienced in the construction of earth and rock fills; I am qualified and authorized in the State of Utah to inspect and certify the condition and appearance of earth and rock fills in accordance with the certified and approved designs for this structure; that the fill structure has been maintained in accordance with the approved design and meets or exceeds the minimum design requirements under all applicable federal, state, and local regulations; and, that inspections and inspection reports are made by myself or under my direction and include any appearances of instability, structural weakness or other hazardous conditions of the structure affecting stability.

By: S. Scott Carlson, PE, Twin Peaks, P.C.
 P.E. Number & State: 187727 UTAH



Affix Signature, Stamp and Date

INSPECTION AND CERTIFIED REPORT ON EXCESS SPOIL PILE OR REFUSE PILE

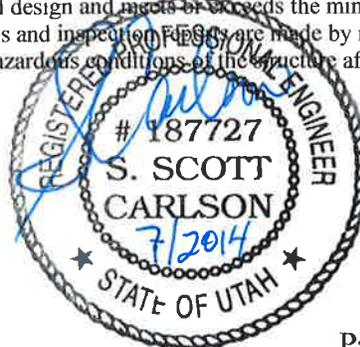
Permit Number: C/007/042 Inspection Date: June 26, 2014
 Mine Name: Star Point Waste Fuel Second Quarter 2014
 Mine Operator (Permittee): Sunnyside Cogeneration Associates Inspector: Rusty Netz
 MSHA ID Number: NA Signature: *Rusty Netz*
 Facility Name: Disposal Area

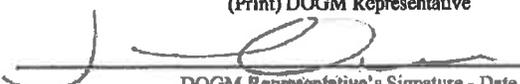
1. Describe any changes in the geometry of the structure (as well as instrumentation, if any, used to monitor changes): **No material was placed in this disposal area during the quarter**
2. Lift Height / Thickness Avg 40-60 ft Maximum 60 ft Elevation of Active Benches: **approximately 7480**
3. Vertical angle of outslope(s) / Location(s) where measured **max 4:1**
4. Total storage capacity: **145K cuyd** Remaining storage capacity **estimated 140K cuyd** Volume placed during year: **None**
5. Describe foundation preparation, (including the removal of vegetation, stumps, topsoil, and all organic material): **Organic material is removed as needed. No topsoil existed since this was a previously disturbed location**
6. Describe Placement and compaction of fill materials (including an explanation of how compaction is confirmed): **Material is generally granular by nature so it is placed, spread by dozer and compacted by wheel rolling**
7. Is there any evidence of fires or burning on the structure? (if Yes, specify extent, location, and abatement / extinguishment of such fires): **No evidence of fires observed**
8. Describe placement of underdrains and protective filter systems, and final surface drainage systems (report any seepage, including location, color, flow): **No underdrains exist. Surface drainage flows to adjacent ditches and to Sediment Pond #009. No seepage is visible**
9. Describe any appearances of instability, structural weakness, and other hazardous conditions **No aspects of the Fill structure were observed that could affect its stability or functionality or which indicated hazardous conditions**
10. Please provide any other information pertaining to the stability of the structure (attach any photos taken during the inspection)
 - a. Are there any cracks or scarps in crest? **NO none observed**
 - b. Is there any detectable sloughing or bulging? **NO none observed**
 - c. Do slope erosion problems exist? **NO erosion conditions are minimal**
 - d. Cracks or scarps in slope? **NO none observed**
 - e. Surface movements? (valley bottom, hillsides) **NO none observed**
 - f. Erosion of Toe? **NO none observed**
 - g. Water impounded by structure? **NO none observed**
 - h. Are diversion ditches stable? **YES appears reasonable**
 - i. Is drainage positive? **YES surface runoff flows to collection ditches**
 - j. Could failure of structure create an impoundment (provide description)? **No surface water flows exist in the vicinity**
 - k. Are design standards established within the mining and reclamation plan for the disposal facility being met? **Yes**
 - l. Proctor Determination: **none required**
11. Provide copies of sample analysis for material placed in the fill. **No new material has been placed in this disposal area for several years.**

I hereby certify that: I am experienced in the construction of earth and rock fills; I am qualified and authorized in the State of Utah to inspect and certify the condition and appearance of earth and rock fills in accordance with the certified and approved designs for this structure; that the fill structure has been maintained in accordance with the approved design and meets or exceeds the minimum design requirements under all applicable federal, state, and local regulations; and, that inspections and inspection reports are made by myself or under my direction and include any appearances of instability, structural weakness or other hazardous conditions of the structure affecting stability.

By: S. Scott Carlson, PE, Twin Peaks, P.C.
 P.E. Number & State: 187727 UTAH

Affix Signature, Stamp and Date



| | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  <p>UTAH DNR OIL, GAS & MINING</p> | <p>Citation for Non-Compliance Utah Coal Regulatory Program 1594 West North Temple, Salt Lake City, UT 84114 Phone: (801) 538-5340 Fax: (801) 359-3940</p> | <p>Citation #: 10139</p> |
| | | <p>Permit Number: C0070042</p> |
| | | <p>Date Issued: 05/02/2014</p> |
| <p> <input checked="" type="checkbox"/> NOTICE OF VIOLATION <input type="checkbox"/> CESSATION ORDER (CO) <input type="checkbox"/> FAILURE TO ABATE CO </p> | | |
| <p>Permittee Name: SUNNYSIDE COGENERATION ASSOCIATES</p> | | <p>Inspector Number and ID: 62 JOWEN</p> |
| <p>Mine Name: STAR POINT REFUSE</p> | | <p>Date and Time of Inspection: 04/30/2014 11:00 am</p> |
| <p>Certified Return Receipt Number: 7012 3460 0002 9559 5925</p> | | <p>Date and Time of Service: 05/02/2014 10:30 am</p> |
| <p>Nature of condition, practice, or violation: The Permittee failed to construct and maintain a proper diversion around its refuse pile. Runoff drainage from above the pile was being directed onto and across the refuse pile.</p> | | |
| <p>Provisions of Act, regulations, or permit violated: R645-301.746.212</p> | | |
| <p><input type="checkbox"/> This order requires Cessation of ALL mining activities. (Check box if appropriate.)</p> | | |
| <p><input type="checkbox"/> Condition, practice, or violation is creating an imminent danger to health or safety of the public.</p> | | <p><input type="checkbox"/> Permittee is/has been conducting mining activities without a Permit.</p> |
| <p><input type="checkbox"/> Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.</p> | | <p><input type="checkbox"/> Permittee has failed to abate Violation(s) included in <input type="checkbox"/> Notice of Violation or <input type="checkbox"/> Cessation Order within time for abatement originally fixed or subsequently extended.</p> |
| <p><input type="checkbox"/> This order requires Cessation of PORTION(S) of mining activities.</p> | | |
| <p>Mining activities to be ceased immediately: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | | <p>Abatement Times (if applicable):</p> |
| | | |
| | | |
| <p>Action(s) required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The Permittee will need to construct and maintain a proper diversion around the refuse pile as soon as possible. The diversion will need to be properly designed according to the requirements of R645-301.746.212. The hydrology section of the Mining and Reclamation Plan (MRP) will need to be amended to include changes that result from adding the diversion. The MRP amendment should include appropriate changes to designs, maps and narratives. Hydrology maps 731.720a and 731.720b need to be updated to include the new diversion, represent the current hydrology on site, and to more clearly depict the names and locations of all ditches, diversions, and culverts.</p> | | |
| <p>Rusty Netz (Print) Permittee Representative</p> | | <p>JAMES OWEN (Print) DOGM Representative</p> |
| <p>Permittee Representative's Signature - Date</p> | | <p>  5/5/14 DOGM Representative's Signature - Date </p> |
| <p><u>SEE REVERSE SIDE Of This Form For Instructions And Additional Information</u></p> | | |



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

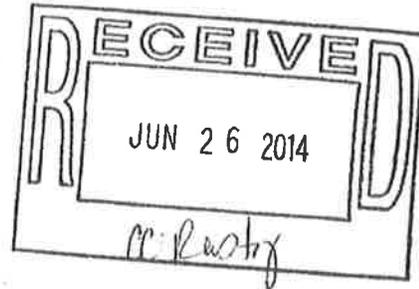
State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director



June 23, 2014

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 5949

Gerald Hascall, Plant Manager
Sunnyside Cogeneration Associates
P. O. Box 159
Sunnyside, Utah 84539

Subject: Proposed Assessment for State Violation No. N 10139, Star Point Refuse, C/007/0042,
Task ID #4587

Dear Mr. Hascall:

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, James Owen, on May 5, 2014. 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 Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

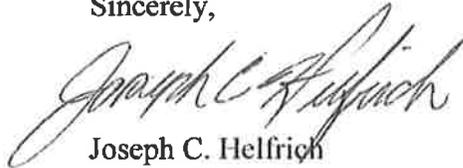
Under R645-401-700, there are two informal appeal options available to you:

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. 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 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 Suzanne Steab.

Sincerely,



Joseph C. Helfrich
Assessment Officer

Enclosure

cc: OSM Compliance Report
Suzanne Steab, DOGM

O:\007042.SWF\WG4587\PROPOSED ASSESSMENT N10139.DOC

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

COMPANY / MINE Star Point Refuse

PERMIT C/007/0042

NOV / CO # N 10139

VIOLATION 1 of 1

ASSESSMENT DATE June 23, 2014

ASSESSMENT OFFICER Joe Helfrich

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:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
- 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. EVENT VIOLATION (Max 45 pts.)

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

The event would probably be in the category of other since the purpose of the diversion ditch is to prevent off site impacts to the areas adjacent to the refuse pile such as air, water soils and vegetation.

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 0

PROVIDE AN EXPLANATION OF POINTS:

*****According to the information in the inspector statement, the operator failed to maintain the diversion ditch around the refuse pile, this resulted in runoff flowing on to the refuse pile.**

Therefore the probability of occurrence of the described events is none.

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:

***** According to the information in the inspector statement, 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? Actual 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) _____

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 8

PROVIDE AN EXPLANATION OF POINTS:

**** According to the information in the inspector statement, the violation occurred as a result of lack of reasonable care by the permittee.*

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

| | | |
|---|-----------------------------------------------------------------------------------------|-------------|
| X | Immediate Compliance | -11 to -20* |
| | (Immediately following the issuance of the NOV) | |
| X | Rapid Compliance | -1 to -10 |
| | (Permittee used diligence to abate the violation) | |
| X | 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

- X Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
- X Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
- X 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? Difficult, plans were required

ASSIGN GOOD FAITH POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

****The permittee exercised diligence in abating the violation.*

V. ASSESSMENT SUMMARY

| | |
|--------------------------------------|--------------------|
| NOTICE OF VIOLATION # <u>N 10139</u> | |
| I. TOTAL HISTORY POINTS | <u>0</u> |
| II. TOTAL SERIOUSNESS POINTS | <u>0</u> |
| III. TOTAL NEGLIGENCE POINTS | <u>8</u> |
| IV. TOTAL GOOD FAITH POINTS | <u>-8</u> |
| TOTAL ASSESSED POINTS | <u>0</u> |
| TOTAL ASSESSED FINE | <u>\$ 0</u> |