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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

February 13, 2018

CERTIFIED RETURN RECEIPT
9590 9402 1618 6053 1296 28

Kyle Edwards, Resident Agent
BRC Wellington, LLC
P.O. Box 401
Wellington, Utah 84542

Subject: Final Assessment for State Cessation Order No. 21198, Wellington Dry-Coal Cleaning Facility, C/007/0045, Carbon County, Utah

Dear Mr. Edwards:

On October 19, 2017 the Division sent you a proposed civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Steve Demczak, on September 19, 2017 for failure to provide adequate bond.

Even though the violation was terminated on October 2, 2017, the assessment remains outstanding. You had 30 days from the date of the proposed assessment to request an Assessment Conference. The time for appeal has now past and the proposed penalty has become final.

The penalty in amount of \$396.00 is now due and payable to the Division. Please remit payment within 30 days to the Division, mail c/o Suzanne Steab.

Sincerely,

Daron R. Haddock
Coal Program Manager

Enclosure

cc: OSM Compliance Report
Sheri Sasaki, DOGM

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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 15

PROVIDE AN EXPLANATION OF POINTS:

******As per information the inspector provided, the bond amount needed to be increased by 3 fold. This would lead to a likely scenario that an operator would walk away vs. do the reclamation. Points were therefore assigned at mid-point of the 'Likely' range.***

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 10

PROVIDE AN EXPLANATION OF POINTS:

****** No actual damage, potential damage would be roughly 2/3 of the site would not be reclaimed if the Division forfeited the surety and had the site reclaimed. Points were assigned slightly below midpoint due to No damage, and potential damage is limited.***

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 N/A

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 25

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 Negligent

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

****** According to the information in the inspector statement, the inspector felt that this violation occurred to lack of diligence or reasonable care. Points were assigned at mid-point of the Negligence range due to the fact the operator had been warned of the need to increase the surety.***

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 (Permittee used diligence to abate the violation)	-11 to -20*
X	Normal Compliance (Operator complied within the abatement period required)	-1 to -10*
X	Extended Compliance (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)	0

EASY OR DIFFICULT ABATEMENT? Easy Abatement

ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS:

******Operator used great diligence in being able to obtain a \$500,000 surety increase within 10 days. Points were assessed at the mid-point of the Rapid compliance range due to the operator had to have begun immediately to have a significant surety increase completed within 10 days.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # 21198

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-15</u>
	TOTAL ASSESSED POINTS	<u>18</u>

TOTAL ASSESSED FINE \$396.00