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DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

June 12, 2018

CERTIFIED RETURN RECEIPT
9590 9402 1618 6053 1296 80

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

Subject: Proposed Assessment for State Violation No. C21202, BRC Wellington, LLC,
Wellington Dry-Coal Cleaning Facility, C/007/0045, Task #5657

Dear Mr. Edwards:

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, Steve Demczak, on February 8, 2018. 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.

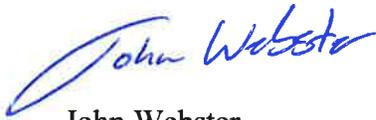
Under R645-401-700, there are two informal appeal options available to you:

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,



John Webster
Assessment Officer

Enclosure

cc: Suzanne Steab, DOGM
Inspector: Steve Demzack, DOGM

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

COMPANY / MINE BRC Wellington LLC /Wellington Dry-Coal Cleaning Facility

PERMIT #: _____ CO #: 21202 VIOLATION 1 of 1

ASSESSMENT DATE 06/12/2018

ASSESSMENT OFFICER John Webster

I. HISTORY (Max. 25 pts.)

A. Are there previous violations, which are not pending or vacated, which fall within one (1) year of today's date? YES / No

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>Yes (CO#21198)</u>	<u>10/19/2017</u>	<u>5</u>
<u>Yes (CO#21201)</u>	<u>02/01/2018</u>	<u>5</u>

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 10

II. SERIOUSNESS (Either A or B)

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

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. 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 Administrative (B) violation? Event

A. EVENT VIOLATIONS (Max 45 pts.)

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

What is the probability of the occurrence of the event which a violated standard was designed to prevent? The inspector conducted a complete inspection on Feb. 7, 2018 at the Wellington Dry Coal. According to the inspector's statement, he requested to see an updated Acord form indicating they had current Certificate of Liability Insurance. The Inspector noted that they did not have an updated certificate. He gave them until Feb. 8, 2018 at 4pm to shown an updated certificate or he would issue a CO. They did not provide an updated Certificate of Liability Insurance by the dead line.

<u>PROBABILITY</u>	<u>POINT RANGE</u>	<u>PROBABILITY</u>	<u>POINT RANGE</u>
insignificant	1-4	Likely	10-19
Unlikely	5-9	Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 7

PROVIDE AN EXPLANATION OF POINTS: Since neither an event/injury happened during the time frame stated above, the points were assigned at the high end of the unlikely range.

3. What is the extent of actual or potential damage?: Potential Damage.

ASSIGN DAMAGE POINTS (Range 0-25) 13

PROVIDE AN EXPLANATION OF POINTS: Potential damage points were assigned at the mid range. This was due to having current liability insurance and the potential for damage.

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? Potential
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) 20

III. DEGREE OF FAULT

LEVEL of NEGLIGENCE.	Point Range
No Negligence Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (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?)	1 - 15
Greater Degree of Fault (reckless, knowing or intentional conduct, or economic gain to the operator for not complying)	16 - 30

STATE DEGREE OF NEGLIGENCE: Negligence

ASSIGN NEGLIGENCE POINTS 9

PROVIDE AN EXPLANATION OF POINTS: The operator asked for a 1-2 week grace period to provide insurance. However, the Division denied the request by the R645 Coal Rules. The points were assigned to the mid level of Negligent for failure to provide current liability insurance by the time provided by the Division.

IV. GOOD FAITH (Max 20 pts.)

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

Has Violation Been Abated? YES / NO ,

A. EASY ABATEMENT (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

	<u>Point Range</u>
Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

B. DIFFICULT ABATEMENT (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

	<u>Point Range</u>
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS - 0

PROVIDE AN EXPLANATION OF POINTS: N/A.

V. ASSESSMENT SUMMARY

I.	TOTAL HISTORY POINTS	<u>10</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>9</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>39</u>
	TOTAL ASSESSED FINE	<u>\$2,090.00</u>