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

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November 25, 1998

CERTIFIED RETURN RECEIPT
P 074 978 506

E.M. Gerrick, Vice President of Operations
Western States Minerals
250 South Rock Blvd., Suite 130
Reno, Nevada 89502

Re: Reassesment of Proposed Assessment for State Violation No. N98-45-4-1, Western States Minerals, J.B. King Mine, ACT/015/002, Folder #5, Emery County, Utah

Dear Mr. Gerrick:

The undersigned has been appointed by the Division of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

The Division inspector terminated this violation, after an inspection on November 25, 1998. He reccomended maximum good faith points due to the excellent work done, which exceeded the minumum field work required. I visited the site on November 17, 1998 and concur with this reccomendation. Therefore, the good faith points awarded are 20. The revised assessment is attached.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector Robert Davidson on September 30, 1998. 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 Western States Minerals/ J.B. King Mine NOV# N98-45-4-1

PERMIT ACT/015/002 VIOLATION 1 OF 1

ASSESSMENT DATE 10/23/98 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

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 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? Event

A. EVENT VIOLATION MAX 45 POINTS

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

   * Water Pollution/ Environmental Harm/ Activity Outside the Approved 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 diversion breached in three locations. Additional suspended solids were contributed outside the permit area. The breach failure allowed disturbed area drainage to enter the permit area and enter the undisturbed drainage without treatment.

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 8

PROVIDE AN EXPLANATION OF POINTS:

One of the breaches caused rills and gullies outside the permit area. (Two of the three breaches are minor.)

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) 28

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 8

PROVIDE AN EXPLANATION OF POINTS:

A storm occurred that caused this failure of the diversion. This reclamation site is not monitored daily by the permittee, so was not noticed until the inspection on September 30, 1998. This ditch has a history of concerns.

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? Difficult

ASSIGN GOOD FAITH POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

The Division inspector reported excellent work to abate this violation beyond the minimum

required, as well as other work (which was approved) to prevent future erosion in this area.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION		N98-45-4-1
I.	TOTAL HISTORY POINTS:	0
II.	TOTAL SERIOUSNESS POINTS:	28
III.	TOTAL NEGLIGENCE POINTS:	8
IV.	TOTAL GOOD FAITH POINTS:	20
	TOTAL ASSESSED POINTS:	16
	TOTAL ASSESSED FINE:	**$160.00**

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