



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

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March 2, 1995

CERTIFIED RETURN RECEIPT
P 074 976 174

John Gefferth Group Leader
Consolidation Coal Company
12755 Olive Boulevard
St. Louis MO 63141

Re: Proposed Assessment for State Violation No. N94-46-5-1, Consolidation Coal Co, Emery Deep Mine, ACT/015/015 Folder #5, Emery County, Utah

Dear Mr. Gefferth:

The undersigned has been appointed by the Board 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, Peter Hess on December 27, 1994. Rule R645-401-600 et. sec. 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.



UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

- Print your name, address and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
 - Attach to front of article if space permits, otherwise affix to back of article.
 - Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE, \$300

Print Sender's name, address, and ZIP Code in the space below.

Division of Oil & Gas Mine
333 N NORTH TEMPLE
3 TRIAD CENTER STE 350
SUO, UT 84180

RETURN TO

PS Form 3811, Mar 1988

3-10-95

7. Date of Delivery

6. Signature - Agent *[Signature]*

5. Signature - Address

8. Addressee's Address (ONLY if requested and fee paid)

Always obtain signature of addressee or agent and DATE DELIVERED.

Type of Service:

Registered Insured

Certified COD

Express Mail Return Receipt for Merchandise

3. Article Addressed to:

JOHN GEFRETT GROUP LEADER
 CONSOLIDATION COAL COMPANY
 12755 OLIVE BOULEVARD
 ST. LOUIS MO 63141

1. Show to whom delivered, date, and addressee's address. Restricted Delivery (Extra charge)

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available: Consult postmaster for fees and check boxes for additional services requested.

2. Restricted Delivery (Extra charge)

4. Article Number *074976174*

5. SENDER: *BB DOGM 3/2/95 ACT/015/015 N 94-46-5-1 RLD5*

PS Form 3800, June 1985

MAIL ROOM

See Reverse

JOHN GEFRETT GROUP LEADER
 CONSOLIDATION COAL CO
 12755 OLIVE BOVD
 ST. LOUIS MO 63141

P.O. State and ZIP Code

Postage

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Requested

Return Receipt Fee

Date and Address of Delivery

TOTAL Postage and Fees

Postmark or Date

275

SALT LAKE CITY MAIN OFFICE

P 074 976 174

BB DOGM 3/2/95 ACT/015/015 N 94-46-5-1 RLD5

- THIS SERVICE STANDS AVAILABLE TO COVER FIRST CLASS POSTAGE, POSTAGE PAID, AND CHARGES FOR ANY REGISTERED RETURN RECEIPTS (See Item 1)
1. If you want this receipt postmarked, affix the gummed strip to the right of the return address, leaving the card attached and enclose the article in a postpaid envelope or box or place it in your mail container (no extra charge).
 2. If you do not want this receipt postmarked, affix the gummed strip to the right of the return address and the article, date, detach and retain the receipt, and mail the article.
 3. If you mail a return receipt with the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed card's approved return receipt strip to back of article. Endorse front of article "RETURN RECEIPT REQUESTED" adjacent to the number.
 4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, affix on the front of the article "RESTRICTED DELIVERY" on the front of the article.
 5. Extra fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the appropriate boxes in Item 1 of Form 3811.
 6. Send this receipt if you want a return receipt.

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ACT/007/038
March 2, 1995

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,



Joseph C. Helfrich
Assessment Officer

blb
Enclosure
cc: Donna Griffen, OSM

**WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING**

COMPANY/MINE Consolidation Coal Co/Emery Deep Mine

NOV #N94-46-5-1

PERMIT # ACT/015/015

VIOLATION 1 OF 1

ASSESSMENT DATE 2/22/95

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

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

ASSESSMENT DATE 2/22/95

EFFECTIVE ONE YEAR TO DATE 2/22/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

0

—

0

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 applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which 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? A

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Damage to property and Environmental harm.

- 2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Have not occurred.

.... PROBABILITY	RANGE
.... None	0
.... Unlikely	1-9
.... Likely	10-19
.... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

—

- 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

—

B. Hindrance Violations MAX 25 PTS

- 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) 0

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 - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

.... No Negligence	0
.... Negligence	1-15
.... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary Negligence.

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

According to the Inspectors report, it appeared as though the current management at the mine did not realize there was a problem. The home office in St. Louis ie: Engineering department should have picked up on the annual impoundment certifications. But apparently did not know or did not inform mine management of this oversight.

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
- | | |
|--|--------------------|
| 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 in 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

.... **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, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ **ASSIGN GOOD FAITH POINTS** -8

PROVIDE AN EXPLANATION OF POINTS

The permittee exercised diligence in abating the violation after evaluating a series of questions regarding the validity of evaluation subsequent pond cleaning and recertification effective 12/27/94.

V. ASSESSMENT SUMMARY FOR _____

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>\$ 00.00</u>

blb