C615 015 Incoming

#4631

NOV#10146

RECEIVED

AUG 26 2014

DIV. OF OIL, GAS & MINING

CHECK NUMBER
2850001627

**CONSOL Mining Company LLC**
P.O. Box 305, Canonsburg, PA 15317-0305

56-503/422
CHECK DATE
08/08/2014

| PAY | DOLLARS | CENTS | |
|---|---|---|---|
| | $**264 | .00** | USD |

TO THE ORDER OF

UTAH STATE-DIV OF OIL GAS & MINING
1594 W NORTH TEMPLE STE 1210
PO BOX 145801
SALT LAKE CITY UT 84114-5801

ORIGINAL CHECK
ROUTED TO ACCOUNTING

Michael C. Hardesty

US Bank
Miamisburg, OH

[redacted]

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*

RECEIVED
AUG 26 2014
DIV. OF OIL, GAS & MINING

July 22, 2014

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 5994

Consol Mining Company, LLC
Kerry Goodballet, Director of Permitting
Consol Energy Inc.
CNX Center
1000 Consol Energy Drive
Canonsburg, Pa. 15317

Subject: Proposed Assessment for State Violation No. N 10146, Emery Deep Mine, C/015/0015, Task ID #4631

Dear Ms. Goodballet:

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, Karl Housekeeper, on June 25, 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
Sheri Sasaki, DOGM
O:\015015.EME\WG4631\WG4631 PROPOSED ASSESSMENTNOV 10146.DOC

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

COMPANY / MINE Emery Deep Mine

PERMIT C/015/0015 NOV / CO # N 10146 VIOLATION 1 of 1

ASSESSMENT DATE July 22, 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:

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 HINDRANCE (B) violation? Hindrance

A. EVENT VIOLATION (Max 45 pts.)

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

Water Pollution

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 __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 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 ___12__**

**PROVIDE AN EXPLANATION OF POINTS:**
****** According to the information in the inspector statement,*** *The first quarter of 2014 Refuse Pile inspection and certified report had not been completed.*

**TOTAL SERIOUSNESS POINTS ( A or B )__12__**

**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,** As a result of a name change the contracted P. E. doing the refuse pile inspections was not paid and thought the mine was closed and the inspection and certified report did not get done. The contractor was contacted and apprised of the misunderstanding. Refuse pile inspections and certified reports have resumed for the 2nd quarter of 2014.*

**IV. <u>GOOD FAITH</u> (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 (Immediately following the issuance of the NOV) | -11 to -20* |
| X | Rapid Compliance (Permittee used diligence to abate the violation) | -1 to -10 |
| X | Normal Compliance (Operator complied within the abatement period required) (Operator complied with condition and/or terms of approved Mining and Reclamation Plan) | 0 |

*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<br>(Permittee used diligence to abate the violation) | -11 to -20* |
| X | Normal Compliance<br>(Operator complied within the abatement period required) | -1 to -10* |
| X | Extended Compliance<br>(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)<br>(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | 0 |

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 # **N 10146**

| | | |
|---|---|---|
| I. | TOTAL HISTORY POINTS | 0 |
| II. | TOTAL SERIOUSNESS POINTS | 12 |
| III. | TOTAL NEGLIGENCE POINTS | 8 |
| IV. | TOTAL GOOD FAITH POINTS | - 8 |
| | TOTAL ASSESSED POINTS | 12 |
| | **TOTAL ASSESSED FINE** | **$ 264** |

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Sent To Kerry Goodballet, Dir of Permitting

Street, Apt. or PO Box Consol Mining Company, LLC
CNX Center
1000 Consol Energy Drive

City, State, ZIP+4 Canonsburg, PA 15317

PS Form 3800, August 2006 See Reverse for Instructions