

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

COMPANY / MINE PacifiCorp/ Deer Creek Mine  
PERMIT C/007/006 NOV # N03-49-5-1

VIOLATION 1 of 1

ASSESSMENT DATE October 27, 2003

ASSESSMENT OFFICER Daron R. Haddock

**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  |
|---------------------|----------------|---------|
| <u>None</u>         | <u></u>        | <u></u> |
| <u></u>             | <u></u>        | <u></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 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? (A) Event

A. EVENT VIOLATION (Max 45 pts.)

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

*Transfer of sediment from the site with its attendant erosion and water pollution.*

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:**

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*While sediment was contained by a pond, the likelihood of erosion and water pollution was fairly high because culverts and diversions were inoperable. The Event had fairly high potential of occurring. The Inspector indicated that several culvert inlets were inundated with sediment, vegetation, and noncoal waste. Specifically the culvert inlet for the undisturbed drainage at the C1-C2 transfer (3/4 plugged), the culvert inlet at the contact point of the primary road and the parking lot (100% plugged), and the culvert inlet on the ROM pad (1/2 Plugged).*

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:**

\*\*\* *Culvert inlets were inundated with sediment, vegetation, and noncoal waste. Although the diversions were in poor repair any storm event would be contained to the site and would report to the pond. Thus no offsite impact occurred. Because actual damage was contained to the site and there was only potential for offsite impact the assessed points are in the mid to lower portion of the range.*

**B. HINDRANCE VIOLATION (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:

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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 Negligence

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

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*Maintenance of culverts and diversions is within the power of the permittee. Failure to maintain these facilities shows indifference to the regulations.*

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

|   |  |             |
|---|--|-------------|
| C | Immediate Compliance                                     | -11 to -20* |
|   | (Immediately following the issuance of the NOV)          |             |
| C | Rapid Compliance   | -1 to -10   |
|   | (Permittee used diligence to abate the violation)        |             |
| C | 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 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?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

|   |   |             |
|---|---|-------------|
| C | Rapid Compliance  | -11 to -20* |
|   | (Permittee used diligence to abate the violation)   |             |
| C | Normal Compliance   | -1 to -10*  |
|   | (Operator complied within the abatement period required)  |             |
| C | 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? Easy

ASSIGN GOOD FAITH POINTS -5

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *The Permittee completed the abatement of the violation and the Inspector terminated it on October 24, 2003. Maintenance of culverts is something that is done routinely at an active mine. Equipment should be readily available for this purpose. The abatement for this violation was set at November 3, 2003 and the Operator actually completed the work on October 24<sup>th</sup> which is close to the mid point of the Normal Compliance period. Thus -5 good faith points.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 03-49-5-1

|      |                          |           |
|------|--------------------------|-----------|
| I.   | TOTAL HISTORY POINTS     | <u>0</u>  |
| II.  | TOTAL SERIOUSNESS POINTS | <u>25</u> |
| III. | TOTAL NEGLIGENCE POINTS  | <u>15</u> |
| IV.  | TOTAL GOOD FAITH POINTS  | <u>-5</u> |
|      | TOTAL ASSESSED POINTS    | <u>35</u> |

**TOTAL ASSESSED FINE**

**\$ 500** \_\_\_\_\_

cc: Price Field Office  
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