

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

COMPANY / MINE PacifiCorp/ Deer Creek Mine
PERMIT C/007/006 NOV # N03-49-6-1

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?

Environmental harm and possible 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 10

PROVIDE AN EXPLANATION OF POINTS:

Noncoal waste was present throughout the mine yard. This waste contributes to the plugging of culverts and other diversions. The likelihood of erosion and water pollution is increased by the failure to contain noncoal waste in a controlled manner in the designated portion of the permit area. While environmental harm was not evident the Event had potential of occurring.

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:

*** *Noncoal waste was found all along the backside of the C2 conveyor, around culvert inlets and throughout the mine site and pad areas. Culvert inlets were plugged in some situations (see NOV #N3-49-5-1. While noncoal waste may not be completely responsible for plugged culverts, it contributed to the situation. Damage as a result of this violation is contained to the site and water being diverted by the waste would report to the pond. Thus no offsite impact occurred. Because there was only potential for offsite impact the assessed points are in the 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:

TOTAL SERIOUSNESS POINTS (A or B) 18

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:

Maintaining a clean site is within the power of the permittee. Failure to control and contain noncoal waste in a designated area of the permit 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 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

| | | |
|---|---|-------------|
| 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 _____

PROVIDE AN EXPLANATION OF POINTS:

***** The Permittee has not completed the abatement of the violation at the time of this proposed assessment. The abatement date is set at November 3, 2003. Assignment of Good Faith Points cannot be made at this time.**

V. ASSESSMENT SUMMARY

| | |
|---|---|
| NOTICE OF VIOLATION # <u>N 03-49-6-1</u> | |
| I. | TOTAL HISTORY POINTS <u>0</u> |
| II. | TOTAL SERIOUSNESS POINTS <u>18</u> |
| III. | TOTAL NEGLIGENCE POINTS <u>15</u> |
| IV. | TOTAL GOOD FAITH POINTS <u> </u> |
| | TOTAL ASSESSED POINTS <u>33</u> |
| | TOTAL ASSESSED FINE <u>\$ 460</u> |