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

April 26, 2017

CERTIFIED RETURN RECEIPT
9590 9402 1618 6053 1295 36

Ken Fleck, Manager of Geology and Environmental Affairs
Interwest Mining Co.
P. O. Box 310
Huntington, Utah 84528

Subject: Proposed Assessment for State Violation No. N 21195, Deer Creek Mine, C/015/0018, Task ID #5436

Dear Mr. Fleck:

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, Lisa Reinhart on April 10, 2017. 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.

1594 West North Temple, Suite 1210, Salt Lake City, UT 84116
PO Box 145801, Salt Lake City, UT 84114-5801
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • *www.ogm.utah.gov*

UTAH DNR OIL, GAS & MINING

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,

Lynn Kunzler
Assessment Officer

Enclosure
cc: Suzanne Steab, DOGM
Sheri Sasaki, DOGM
O:\015018.DER\WG5436 NOV21195\ProAssess.doc

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

COMPANY / MINE Interwest Mining Co. / Deer Creek Mine

PERMIT C/015/0018 NOV / CO # N 21195 VIOLATION 1 of 1

ASSESSMENT DATE April 26, 2017

ASSESSMENT OFFICER Lynn Kunzler

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
None		

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 N/A

PROVIDE AN EXPLANATION OF POINTS:
******According to the information in the inspector statement,***

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 N/A

PROVIDE AN EXPLANATION OF POINTS:
****** According to the information in the inspector statement,***

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 13

PROVIDE AN EXPLANATION OF POINTS:
****** Without the monitoring Data, there is no way for the inspector to determine compliance with raptor protection requirements. Without evidence that raptors were actually affected by mining operations, the points are assigned at the mid-point of the range.***

TOTAL SERIOUSNESS POINTS (A or B) 13

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 10

PROVIDE AN EXPLANATION OF POINTS:
****** According to the information in the inspector statement, the operator neglected to conduct the required monitoring. The monitoring is identified several place in the MRP. In addition, at least one of the three nests in the area was 'active' the previous year, in which the operator needed to provide specific care to protect. This would demonstrate that the operator should have been ware of need for continued monitoring. Points are therefore assigned at 2/3 the 'Negligence' point range.***

IV. GOOD FAITH (Max 20 pts.) *Since no abatement was required, good faith points are not awarded.*

(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 -11 to -20*
(Permittee used diligence to abate the violation)

X Normal Compliance -1 to -10*
(Operator complied within the abatement period required)

X 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? _____

ASSIGN GOOD FAITH POINTS N/A

PROVIDE AN EXPLANATION OF POINTS:
******Good faith will be evaluated upon termination of the violation***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N 21195**

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	13
III.	TOTAL NEGLIGENCE POINTS	10
IV.	TOTAL GOOD FAITH POINTS	--
	TOTAL ASSESSED POINTS	23
	TOTAL ASSESSED FINE	**$ 506.00**