

February 24, 2006

CERTIFIED RETURN RECEIPT
7099 3400 0016 8894 6253

Mark Reynolds, Permitting Coordinator
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Subject: Proposed Assessment for State Violation No. N06-46-1-1, Co-Op Mining Co., Bear Canyon Mine, C/015/025, Outgoing File

Dear Mr. Reynolds:

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, Peter Hess, on February 3, 2006. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information that 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

Page 2
Mark Reynolds
N06-46-1-1
C/015/025
February 24, 2006

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 will become final, and the penalty will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

Daron R. Haddock
Assessment Officer

DRH/vs
Enclosure
cc: OSM Compliance Report
Vickie Southwick, DOGM
Price Field Office
P:\GROUPS\COAL\WP\015025.BCN\FINAL\proposedassessment.doc

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

COMPANY / MINE Co-Op Mining Company – Bear Canyon Mine PERMIT C/015/025
NOV/CO # N06-46-1-1 VIOLATION 1 of 1

ASSESSMENT DATE February 22, 2006

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>N05-46-1-1</u>	<u>4/15/2005</u>	<u>1</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 1

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 (B)**

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
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 0

PROVIDE AN EXPLANATION OF POINTS:

*****Not Applicable**

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:

*****Not Applicable**

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? 15
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

*****The Permittee failed to collect and analyze water quality samples from all active surface and ground water monitoring points as required during August 2005. This action prevented/hindered the Division's assigned hydrologist and inspector from reviewing the information in a timely manner. Without this information being collected and submitted, it is impossible to determine what impact mining may have had on the hydrologic balance at these sites. Points are assessed in the upper middle part of the range because of actual hindrance.**

TOTAL SERIOUSNESS POINTS (A or B) 15

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 16

PROVIDE AN EXPLANATION OF POINTS:

******The Permittee should have been aware that these sites were part of their monitoring program. The water monitoring plan found in the approved MRP (Table 7-14) describes the sites and parameters to be analyzed. A violation was issued on April 15, 2005 for failing to submit water monitoring data. It should have been evident after this last violation that the water monitoring plan needed to be strictly adhered to. Because this is the second violation of this nature within a year, I view this as lack of diligence to the point that it is a greater degree of fault. Thus 16 points are assigned.***

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 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

- 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 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? Not Applicable

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

****The operator could not go back and collect the water samples after the fact, however, the abatement requires samples to be collected and analyzed during August of 2006. Since the abatement has not been completed, good faith can not be awarded at this time. The Permittee is required to monitor and sample the sites in the future as required under their approved water-monitoring plan. Once the abatement is completed, this area can be looked at again and good faith points awarded, depending on diligence in complying with the requirements.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N 06-49-1-1</u>	
I.	TOTAL HISTORY POINTS <u>1</u>
II.	TOTAL SERIOUSNESS POINTS <u>15</u>
III.	TOTAL NEGLIGENCE POINTS <u>16</u>
IV.	TOTAL GOOD FAITH POINTS <u>0</u>
	TOTAL ASSESSED POINTS <u>32</u>
	TOTAL ASSESSED FINE <u>\$ 1320</u>