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State of Utah

**Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

December 15, 2006

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 2604

Charles Reynolds, Mine Manager
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

OK

Subject: Reassessment for State Violation No. N06-46-2-2 part 1 of 2, Co-Op Mining Company, Bear Canyon Mine, C/015/0025, Outgoing File

Dear Mr. Reynolds:

Enclosed please find the reassessment for the above referenced Notice of Violation. The abatement requirements have now been met and the violation has been terminated. Now that the violation has been terminated, the assessment can be completed.

The proposed civil penalty assessment for the above referenced cessation order was sent to you on May 10, 2006. At that time the abatement had not been completed and some of the facts surrounding the violation were not available. In accordance with rule R645-401-630, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Now that the Cessation Order has been terminated (termination notice enclosed) the assessment can be completed. Following is the reassessment of the penalty for the cessation order:

- MC-06-46-02-02 Violation 1 of 2 \$880

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith points have now been awarded. If you are satisfied with this assessment, you should make payment to the Division of Oil, Gas & Mining.

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Otherwise, under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Cessation Order, 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, Associate Director or assigned conference officer. 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 one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



Daron R. Haddock
Assessment Officer

Enclosure

cc: Vickie Southwick, DOGM
Price Field Office

O:\015025.BCN\Compliance\2006\reassessmentN06-46-2-2.doc

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

COMPANY / MINE C. W. Mining Company, (d.b.a., Co-Op Mining Company)

PERMIT C/015/0025 CO/NOV # N06-46-2-2 VIOLATION 1 of 2

REASSESSMENT DATE December 15, 2006

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.)

- A. Are there previous violations, which are not pending or vacated, which fall within one (1) year of the date the violation was issued?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N05-46-1-1</u>	<u>April 15, 2005</u>	<u>1</u>
<u>N06-46-1-1</u>	<u>February 3, 2006</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 2

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? **EVENT (A)**

A. **EVENT VIOLATION** (Max 45 pts.)

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

*****Water Pollution and unsafe road conditions.**

2. What is the probability of the occurrence of the event that 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 20

PROVIDE AN EXPLANATION OF POINTS:

*****The event that the regulation was intended to prevent is water pollution and unsafe road conditions. Snow melt water was observed reporting from the snow storage areas along primary access road at the #3 mine in an uncontrolled manner. Water pollution was occurring along the access road because adequate drainage and sediment control were not in place. The road and pad areas were becoming saturated with water and as a result could be considered unsafe. The sediment control in this area was not adequate to handle the volume of water and as a result water was running on the road and pad in an uncontrolled manner. Water pollution and unsafe road conditions did occur.**

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:

*****The inspector indicated that minor damage had occurred as a result of the violation. Some water pollution was occurring as a result of the untreated runoff but it was very minimal (mainly just potential for damage). Because there is only minor damage and it occurred during a seasonal runoff event, points are assessed in the lower third 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 0

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 28

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 Ordinary Negligence

ASSIGN NEGLIGENCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

****Proper design and permitting of snow storage and water treatment are expected. A prudent operator would assure that melt water treatments are adequate to control runoff and pollution. By not permitting or adequately addressing the storage of snow and runoff of snow melt the operator shows a lack of diligence and reasonable care. The inspector indicated that he had advised the permittee to permit storage areas for snow accumulations, but the fact that the operator didn't indicates a general lack of concern. Accordingly, an assessment in the middle of the negligence range has been levied.*

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 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

- 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? **Difficult**

ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS:

****Plans were required to be submitted so this is considered a difficult abatement. Although this violation seemed to take a long time to abate (issued on April 10, 2006), the Operator was timely in getting the amendment in and approved. Much of the delay was in Division review time that should not reflect upon the Operators response time. Speaking with the inspector and reviewers, it is clear that the Operator completed the abatement within the required abatement period. Ten good faith points are awarded for completing a difficult abatement within the normal compliance range.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 06-46-2-2 (1 of 2)

I	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>28</u>
	TOTAL ASSESSED FINE	<u>\$880.00</u>