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State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

JK

September 27, 2007

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801

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

Subject: Proposed Assessment for Notice of Violation #10010, Co-Op Mining Company, Bear Canyon, C/015/0025

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 September 28, 2007. 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, 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.



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Charles Reynolds
September 27, 2007

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 Vickie Southwick.

Sincerely,

A handwritten signature in black ink that reads "Daron R. Haddock". The signature is written in a cursive style with a large initial "D" and "H".

Daron R. Haddock
Assessment Officer

Enclosure

cc: OSM Compliance Report
Vickie Southwick, DOGM
Price Field Office

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**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 # 10010
ASSESSMENT DATE September 27, 2007

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>N06-46-2-2 (1of 2)</u>	<u>12/13/2006</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 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? Event

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 9

PROVIDE AN EXPLANATION OF POINTS:

*** *The permittee did not dispose of non-coal waste appropriately and allowed the waste to accumulate on the #3 mine portal pad, near the #4 mine fan, and in sediment control structures. While there is no environmental harm identified, there is potential that this practice could be detrimental to the environment. If debris is allowed to accumulate near sediment control structures, this could interfere with the function of those structures. I viewed this as a somewhat unlikely probability, so I only assessed 9 points.*

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:

*** *The inspector indicates that there is no damage as a result of the non-coal waste not being disposed of properly. All debris was within the existing disturbed area of the mine.*

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) 9

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 8

PROVIDE AN EXPLANATION OF POINTS:

**** This violation was the result of indifference to the DOGM regulations or the lack of reasonable care. A prudent operator would understand the need to comply with the regulations and the terms of the permit. In this case the Operator was somewhat negligent in allowing non-coal waste to accumulate at the site, without disposing of it properly. I view this as ordinary negligence, which equates to the middle of the range.*

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

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

- | | | |
|---|---|-------------|
| 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? Easy

ASSIGN GOOD FAITH POINTS -18

PROVIDE AN EXPLANATION OF POINTS:

******* *The violation was documented and forwarded to the Operator on August 28, 2007 @ 10:00 am. At 12:30 pm that same day the Division was notified that the abatement had been completed. The violation was terminated at 2:05 pm. This shows that the operator took immediate steps to achieve compliance and did so with a few hours of being notified of the violation. While this is considered to be an easy abatement, the Operator took care of the problem almost immediately. 18 good faith points are awarded.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N</u>	
I.	TOTAL HISTORY POINTS <u>1</u>
II.	TOTAL SERIOUSNESS POINTS <u>9</u>
III.	TOTAL NEGLIGENCE POINTS <u>8</u>
IV.	TOTAL GOOD FAITH POINTS <u>-18</u>
	TOTAL ASSESSED POINTS <u>0</u>
	TOTAL ASSESSED FINE <u>\$ 0</u>



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September 27, 2007

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801

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

Subject: Proposed Assessment for Notice of Violation #10010, Co-Op Mining Company, Bear Canyon, C/015/0025

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 September 28, 2007. 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, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
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Charles Reynolds
September 27, 2007

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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 Vickie Southwick.

Sincerely,

A handwritten signature in black ink that reads "Daron R. Haddock". The signature is written in a cursive style with a large, stylized "D" and "H".

Daron R. Haddock
Assessment Officer

Enclosure

cc: OSM Compliance Report
Vickie Southwick, DOGM
Price Field Office

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**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 # 10012
 ASSESSMENT DATE September 27, 2007

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>N06-46-2-2 (1of 2)</u>	<u>12/13/2006</u>	<u>1</u>
<u>#10010</u>	<u>08/28/2007</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. 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 9

PROVIDE AN EXPLANATION OF POINTS:

******* *The permittee is responsible for maintaining diversions on the site. Several items were pushed into diversion D-40U. This has occurred on a number of occasions and the inspector has issued several warnings about this practice. Having machinery parts, non-coal waste (pallet), and dirt in the diversion creates a situation where water pollution or erosion could occur because the ditch would be unable to function properly. No water was flowing at the time of the inspection so there is only potential for the event to occur. The event would occur only during a rainfall or storm event, so I view it as unlikely to occur. I have assigned 9 points since there is some likelihood of water pollution to occur as a result of this practice.*

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:

******* *Because there was no storm event occurring at the time of the inspection there was no damage as a result of the items being in the diversion. (only potential)*

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) 9

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 12

PROVIDE AN EXPLANATION OF POINTS:

****** This violation was the result of indifference to the DOGM regulations or the lack of reasonable care. A prudent operator would understand the need to keep diversion ditches clear and maintained. The same type of violation has occurred at this mine in the past. This would indicate that the operator is showing indifference to the rules and is not correcting problems when they have been identified. I view this as getting closer to the Greater Degree of Fault category but I am considering this to still be ordinary negligence. 12 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

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

- | | | |
|---|---|-------------|
| 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? Easy

ASSIGN GOOD FAITH POINTS -18

PROVIDE AN EXPLANATION OF POINTS:

******* *The violation was emailed to the Operator on August 28, 2007 @ 10:00 am. The violation was terminated at 2:00 pm. This shows that the operator took immediate steps to achieve compliance and did so within a few hours of being notified of the violation. While this is considered to be an easy abatement, the Operator took care of the problem almost immediately. 18 good faith points are awarded.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N 10012</u>	
I. TOTAL HISTORY POINTS	<u>2</u>
II. TOTAL SERIOUSNESS POINTS	<u>9</u>
III. TOTAL NEGLIGENCE POINTS	<u>12</u>
IV. TOTAL GOOD FAITH POINTS	<u>-18</u>
TOTAL ASSESSED POINTS	<u>5</u>
TOTAL ASSESSED FINE	<u>\$ 110</u>