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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

Outgoing
C0150025
R

December 11, 2008

CERTIFIED RETURN RECEIPT

7005 2570 0000 4801 7086

Charles Reynolds
Hiawatha Coal Co.
P. O. Box 1245
Huntington, Utah 84528

Subject: Proposed Assessment for State Violation No. N10031, Hiawatha Coal Co., Bear Canyon Mine, C/015/0025, 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, Jim Smith, on November 5th, 2008. 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.

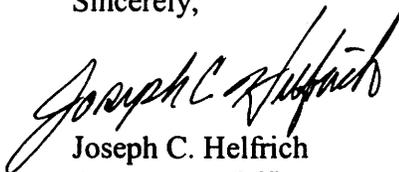


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Charles Reynolds
Hiawatha Coal Co.
C0070019
December 11, 2008

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 Vickie Southwick.

Sincerely,



Joseph C. Helfrich
Assessment Officer

Enclosure

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

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LETTER DATED 12/11/208
STATE VIOLATION N10029
HIAWATHA COAL COMPANY
BEAR CANYON MINE
C0070019

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Send To
CHARLES REYNOLDS
P O BOX 1245
HUNTINGTON UTAH 84528

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

COMPANY / MINE Hiawatha Coal Company

PERMIT C/015/0025 NOV / CO # 10031 VIOLATION 1 of 1

ASSESSMENT DATE December 1, 2008

ASSESSMENT OFFICER Joe Helfrich

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># N10012</u>	<u>12/20/2007</u>	<u>1</u>
<u># N10020</u>	<u>12/01/2008</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? Hindrance

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 _____

PROVIDE AN EXPLANATION OF 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 _____

PROVIDE AN EXPLANATION OF POINTS:

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 25

PROVIDE AN EXPLANATION OF POINTS:

***According to the inspector statement, "The Permittee failed to have the water sample from SBC-9a analyzed for dissolved lead. Analysis for lead is required at this site because the water discharged through SBC-9A is the culinary water supply for the Bear Canyon Mine, and a battery-powered coal hauler, loaded with lead-acid DC power cells, was buried by a roof-fall near the underground source of this water".

TOTAL SERIOUSNESS POINTS (A or B) 25

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 _____

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*****According to the inspector statement, "The MRP was specifically amended to require monitoring for lead at SBC-9a. The water discharged from the mine through SBC-9A is the culinary water supply for the Bear Canyon Mine. An unanticipated roof fall in the 1st North section of the Bear Canyon #1 Mine on January 14, 2003 buried a battery-powered coal hauler, loaded with lead-acid DC power cells, near the source of this flow.**

Analysis for lead has been missed at this site in the past, as noted in the Division's Quarterly Water Monitoring Reports for the 4th Qtr 2007 and 1st Qtr 2008. During the 4th Qtr 2007 there were a number of parameters missed at several monitoring sites, which resulted in NOV 10020

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? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*****There was no abatement required by the violation**

V. **ASSESSMENT SUMMARY**

NOTICE OF VIOLATION # **N 10031**

I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>47</u>
	TOTAL ASSESSED FINE	<u>\$ 2,970</u>