

✓ 015/0.25 Incoming

THE BANK OF NEW YORK MELLON
500 Ross Street, Suite 154-0510, Pittsburgh, PA 15263

VOID AFTER 90 DAYS

#3497
10129
60-249 / 433

Case	Debtor
08-20105 B 92000220629366	C.W. MINING COMPANY
PAYMENT OF VIOLATION NO. 10047	

TID #640001
KENNETH A. RUSHTON, TRUSTEE
99 WEST MAIN STREET
P.O. BOX 212 LEHI, UTAH 84043

Date 05/06/2010

\$ *****2,420.00

Two Thousand Four Hundred Twenty Dollars and 00/100

Pay to the Order of
STATE OF UTAH, DIVISION OF OIL, GAS & MINING
1594 WEST NORTH TEMPLE, SUITE 1210
P.O. BOX 145801
SALT LAKE CITY UT 84114-5801

ORIGINAL CHECK
ROUTED TO ACCOUNTING
KENNETH A. RUSHTON, TRUSTEE

⑈00010129⑈ ⑆0

RECEIVED
MAY 11 2010
DIV. OF OIL, GAS & MINING



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
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

March 23, 2010

CERTIFIED RETURN RECEIPT
7003 2260 0002 0247 7808

Kenneth A. Rushton, Trustee
99 West Main Street, #202
Lehi, Utah 84043

Subject: Proposed Assessment for State Violation No. N 10047, Bear Canyon Mine,
C/015/0025, Task ID #3497, Outgoing File

Dear Mr. Rushton:

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, Karl Housekeeper, on March 4, 2010. 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.

RECEIVED

MAY 11 2010

DIV. OF OIL, GAS & MINING

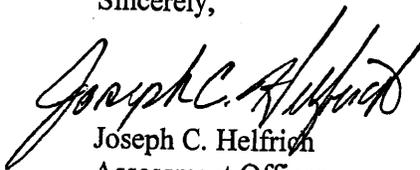


Page 2
Kenneth Rushton
C/015/0025
March 23, 2010

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,



Joseph C. Helfrich
Assessment Officer

Enclosure

cc: OSM Compliance Report
Suzanne Steab, DOGM
Vicki Bailey, DOGM
Price Field Office

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

COMPANY / MINE Bear Canyon Mine

PERMIT C/015/0025 NOV / CO # N 10047 VIOLATION 1 of 1

ASSESSMENT DATE March 23, 2010

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>C10034</u>	<u>05/18/2009</u>	<u>5</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 5

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?

Water Pollution

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 5

PROVIDE AN EXPLANATION OF POINTS:

*****According to the information in the inspector statement, Approximately 4 to 5 loader buckets of sediment laden snow were pushed and or dumped over a disturbed area berm adjacent to the # 4 truck loadout. "The event has not occurred. Temporary sediment control structures have been installed to prevent conveyance of the sediment mixed in the snow into Bear Creek" The probability of this occurrence is unlikely.**

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 12

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, sediment and sediment laden snow were pushed over a disturbed area berm adjacent to Bear creek within the stream buffer zone. The stream buffer area is currently subject to the sediments of the deposited material.**

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 _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 17

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 20

PROVIDE AN EXPLANATION OF POINTS:

*** According to the information in the inspector statement, the permittee was in violation of a specific permit condition, that being the deposition of sediment laden material in a stream buffer zone.

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? Difficult, plans were required

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*****Good faith will be evaluated upon termination of the violation**

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 10047

I.	TOTAL HISTORY POINTS	<u>5</u>
II.	TOTAL SERIOUSNESS POINTS	<u>17</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>42</u>

TOTAL ASSESSED FINE \$ 2,420