GARY R. HERBERT
Governor

SPENCER J. COX
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

May 2, 2016

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 6809

Jaren Jorgensen
Castle Valley Mining, LLC
PO Box 475
Huntington, Utah 84528

Subject: Proposed Assessment for State Violation Nos. 19154 and 21171 Castle Valley Mining, LLC, Bear Canyon Mine, C/015/0025, Task ID #4941 & #5157

Dear Mr. Jorgensen:

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 Joe Helfrich, and Daron Haddock on July 18, 2015 and April 6, 2016, respectively. 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.

1594 West North Temple, Suite 1210, Salt Lake City, UT 84116
PO Box 145801, Salt Lake City, UT 84114-5801
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • *www.ogm.utah.gov*

UTAH DNR
OIL, GAS & MINING

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,

Lynn Kunzler
Assessment Officer

LK/ss
Enclosure
O:\015025.BCN\WG5157 N21171\pro-assessLetter-05022016.doc

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

COMPANY/MINE	Castle Valley Mining, LLC /Bear Canyor	PERMIT#	C0150025	NOV/CO#	19154
ASSESSMENT DATE	4/29/2016	ASSESSMENT OFFICER	Lynn Kunzler		

I. HISTORY (Maximum 25 Points)

A. Are there previous violations which are not pending or vacated, which fall one (1) year of today's date? no

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS

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 0

II. SERIOUSNESS (Either A EVENT or B HINDRANCE)

NOTE: For assignment of points in Parts II or 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-popint of the category, the Assessment Officer will adjust the points up or down, utilizing the Inspector's and Operator's statements as guiding documents.

A. EVENT VIOLATION (Maximum 45 Points)

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

Water Polution

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE
None	0
Unlikely	1 - 9
Likely	10 - 19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

Inspector was uncertain as to whether the event had occurred, because there was no runoff during the inspection. He also indicated that it appeared that runoff had bypassed some of the structures and that it was likely damage could occur. Points are assessed at the mid-point of the 'Likely' range.

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 or area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

The inspector indicated that damage would only occur during runoff events and that the damage would be increased sediment to Bear Creek and Huntington Creek Considering that it was likely that some damage had already occurred, and certainly additional damage would occur with each runoff event, points were assigned at the lower 1/3 of the range.

B. HINDRANCE VIOLATION (Maximum 25 Points)

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) 23

III. NEGLIGENCE (Maximum 30 Points)

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** 7

PROVIDE AN EXPLANATION OF POINTS:

Inspector indicated the violation was the result of not knowing about, or indifference to DOGM regulations or, as a result of lack of reasonable care. He also indicated the area was wet and muddy (just coming out of the winter season). This could be a mitigating factor in the actual negligence for maintaining the structures. Points are therefore assigned just below the mid-point of the 'Negligence' range.

IV. GOOD FAITH (Max 20 Points) (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	RANGE
Normal Compliance	0

Operator complied within the abatement period required.
Operator complied with condition and/or terms of approved MRP.

Rapid Compliance	-1 to -10

Permittee used diligence to abate the violation.

Immediate Compliance	-11 to -20*

Immediately following the issuance of the NOV)

**Assign in upper of lower half of range depending on abatement occuring 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	RANGE
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 the conditions and/or terms of approved MRP.

Normal Compliance	-1 to -10*

Operator complied within the abatement period required.

Rapid Compliance	-11 to -20*

Permittee used diligence to abate the violation.

**Assign in upper of lower half of range depending on abatement occuring the 1st or 2nd half of abatement period.*

EASY OR DIFFICULT ABATEMENT?

ASSIGN GOOD FAITH POINTS [ ]

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION #	19154
I. TOTAL HISTORY POINTS	0
II. TOTAL SERIOUSNESS POINTS	23
III. TOTAL NEGLIGENCE POINTS	7
IV. TOTAL GOOD FAITH POINTS	0
TOTAL ASSESSED POINTS	30
TOTAL ASSESSED FINE	**$ 1,100**

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

COMPANY/MINE	Castle Valley Mining, LLC /Bear Canyor	PERMIT#	C0150025	NOV/CO#	21171
ASSESSMENT DATE	4/29/2016	ASSESSMENT OFFICER	Lynn Kunzler		

I. HISTORY (Maximum 25 Points)

A. Are there previous violations which are not pending or vacated, which fall one (1) year of today's date? no

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS

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 0

II. SERIOUSNESS (Either A EVENT or B HINDRANCE)

NOTE: For assignment of points in Parts II or 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-popint of the category, the Assessment Officer will adjust the points up or down, utilizing the Inspector's and Operator's statements as guiding documents.

A. EVENT VIOLATION (Maximum 45 Points)

1. What is the event which the violated standard was designed to prevent?
The event the violated standard was to protect was environmental harm.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE
None	0
Unlikely	1 - 9
Likely	10 - 19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

The inspector indicated that this event had occurred in that coal materials had encroached within the stream buffer zone which has already impacted the soil resources, and is likely to impact the hydrologic system with a storm event that would carry coal materials into the stream.

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 or area and impact on the public or environment.

ASSIGN DAMAGE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

The inspector indicated that there were two, rather large coal spills from the conveyor system that have impacted the soils beneath the conveyor system and could also contribute to sedimentation of the stream during runoff events. Points are therefore assigned at the mid-point of the range.

B. HINDRANCE VIOLATION (Maximum 25 Points)

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) 33

III. NEGLIGENCE (Maximum 30 Points)

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** 10

PROVIDE AN EXPLANATION OF POINTS:

The inspector indicated that the operator has not taken the time to adequately maintain the suspended conveyor system, and that on at least two occassions, coal has spilled from the conveyor system. A prudent operator should have been aware of the need to properly maintain his facilities and would have shown a greater degree of diligence after the first spill in maintaining the conveyor system. Points therefore assigned at slightly above the midpoint of the range.

IV. GOOD FAITH (Max 20 Points) (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	RANGE
Normal Compliance	0

Operator complied within the abatement period required.
Operator complied with condition and/or terms of approved MRP.

Rapid Compliance	-1 to -10

Permittee used diligence to abate the violation.

Immediate Compliance	-11 to -20*

Immediately following the issuance of the NOV)

**Assign in upper of lower half of range depending on abatement occuring 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	RANGE
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 the conditions and/or terms of approved MRP.

Normal Compliance	-1 to -10*

Operator complied within the abatement period required.

Rapid Compliance	-11 to -20*

Permittee used diligence to abate the violation.

**Assign in upper of lower half of range depending on abatement occuring the 1st or 2nd half of abatement period.*

EASY OR DIFFICULT ABATEMENT?

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:
Violation has not yet been abated.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION #	21171
I. TOTAL HISTORY POINTS	0
II. TOTAL SERIOUSNESS POINTS	33
III. TOTAL NEGLIGENCE POINTS	10
IV. TOTAL GOOD FAITH POINTS	0
TOTAL ASSESSED POINTS	43
TOTAL ASSESSED FINE	**$ 2530**