



State of Utah

Department of
Natural Resources

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Division of
Oil, Gas & Mining

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Division Director

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Lieutenant Governor

September 29, 2004

OK

CERTIFIED RETURN RECEIPT
7099 3400 0016 8895 5613

Gary Gray, Resident Agent
Genwal Resources, Inc.
P.O. Box 1077
Emery, Utah 84501

Re: Proposed Assessment for State Violation No. N04-49-5-1, Genwal Resources, Inc., Crandall Canyon Mine C/015/0032, Outgoing File

Dear Mr. Gray:

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 R. Houskeeper, on September 13, 2004. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information that 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.
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.

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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,



D. Wayne Hedberg
Assessment Officer

Enclosure

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

O:\015032.CRA\Compliance\2004\N04-49-5-1proltr.doc

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

COMPANY / MINE Genwal Resources, Inc. / Crandall Canyon Mine PERMIT C/015/032
NOV / CO # N04-49-5-1 VIOLATION 1 of 1

ASSESSMENT DATE 09/29/2004

ASSESSMENT OFFICER D. Wayne Hedberg

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>N04-49-4-1</u>	<u>08/19/2004</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)

A. EVENT VIOLATION (Max 45 pts.)

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

*****Noncoal waste was present in oil storage containment, ditch DD-5, ditch DD-4, and in mine operation area (upper pad), and USFS Trailhead parking area. Noncoal waste was also present on all surrounding slopes.**

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 10

PROVIDE AN EXPLANATION OF POINTS:

******Although an event (combustion/explosion) did not occur, the potential for environmental harm and injury to the public is evident from the improper handling and storage of noncoal waste items at the mine site. Combustible items in and around the fuel and oil storage areas, creates a serious concern to the safety of the employees at the mine facilities.***

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:

******No physical damage or injury occurred at the mine as a result of the permit violation.***

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? 0
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:

******There was no hindrance to enforcement resulting from the violation.***

TOTAL SERIOUSNESS POINTS (A or B) 10

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation that 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 10

PROVIDE AN EXPLANATION OF POINTS:

******Combustible items in and around the fuel and oil storage areas, creates a serious concern to the safety of the employees at the mine facilities. The operator has been warned on previous inspections about this problem.***

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 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

- 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? EASY

ASSIGN GOOD FAITH POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

****The operator was given 30 days to abate the violation. The operator notified the inspector that abatement work was complete within four days after issuance of the NOV. Abatement was confirmed and the violation was terminated on day four.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N04-49-5-1</u>	
I. TOTAL HISTORY POINTS	<u>1</u>
II. TOTAL SERIOUSNESS POINTS	<u>10</u>
III. TOTAL NEGLIGENCE POINTS	<u>10</u>
IV. TOTAL GOOD FAITH POINTS	<u>-10</u>
TOTAL ASSESSED POINTS	<u>11</u>
TOTAL ASSESSED FINE	<u>\$242.00</u>