

0062



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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
C0150032
#3418
K

November 24, 2009

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 9900

Dave Shaver
Genwal Resources, Inc.
P. O. Box 1910
East Carbon, Utah 84520-0910

Subject: Proposed Reassessment for State Violation No. N 10046, Genwal Resources, Inc., Crandall Canyon Mine, C/015/0032, Task #3418, Outgoing File

Dear Mr. Shaver:

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 October 29, 2009. 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:

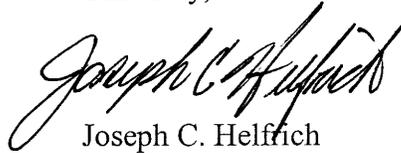
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



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
Vicky Bailey, DOGM
Suzanne Steab, DOGM
Price Field Office

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Total Pos **0062**

Sent To **Dave Shaver**
P.O. Box 910
Street, Apt. or PO Box **East Carbon, UT 84520-0910**
City, State,

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

COMPANY / MINE Genwal Resources Inc., Crandall Canyon Mine

PERMIT C/015/0032 NOV / CO # N 10046 VIOLATION 1 of 1

ASSESSMENT DATE November 9, 2009

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
_____	_____	_____
_____	_____	_____

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 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 10

PROVIDE AN EXPLANATION OF POINTS:

*****According to the information in the inspector statement, "The sediment level in the sediment pond is @ 7774.7'. The approved mining and reclamation plan indicates that the 60% sediment clean level elevation is 7769.0' and the maximum sediment elevation is 7770.0'. The sediment level is 5.7' above the 60% clean elevation and most importantly is 4.7' above the maximum sediment level. Pond designs are developed to prevent water pollution and environmental harm by having enough capacity to treat the designed storm event while preventing failure of the pond. It is for this reason that maximum sediment levels are established. The 60% clean elevation is given so that the pond is cleaned in advance of reaching the maximum sediment level, thereby leaving enough capacity in the pond to treat the designed storm event. "**

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:

***** According to the information in the inspector statement, no damage occurred as a result of the violation.**

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) 10

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 requirement to maintain the sediment pond to the designed sediment levels noted in the approved MRP thereby leaving enough capacity to treat the designed storm event.*

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? Difficult, plans were required

ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS:

******The operator did not have the necessary on site resources to abate the violation. Bids were required and excavation equipment had to be modified to remove the material from the pond. The pond had to be pumped before the material could be removed.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 10046	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>10</u>
III. TOTAL NEGLIGENCE POINTS	<u>20</u>
IV. TOTAL GOOD FAITH POINTS	<u>-15</u>
TOTAL ASSESSED POINTS	<u>15</u>
TOTAL ASSESSED FINE	<u>\$ 330</u>

Outgoing
C0150032
#3418
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**Action Taken on Existing Citation
Utah Coal Regulatory Program**

1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538 - 5285 Fax: (801) 359-3940

Action on Citation#: **10046**
Permit Number: **C0150032**
Date Cit. Issued: **10/29/2009**

MODIFICATION of **TERMINATION of** **VACATION of**

NOTICE OF VIOLATION **CESSATION ORDER (CO)** **FAILURE TO ABATE CO**

Permittee Name: Genwal Resources, Inc.	Inspector Number and ID: 49 KHOUSKEE
Mine Name: Crandall Canyon Mine	Date and Time of Action: 11/25/2009 2:10 pm
Certified Return Receipt Number: Regular Mail & Fax	Date and Time of Service: 11/25/2009 2:30 pm

In accordance with the provisions of the Utah Coal Mining and Reclamation Act, Utah Code Ann. § 40-10-1 et. seq. (Act), the above referenced Citation is:

Modified as follows:
Abatement time extended from November 29, 2009 to December 29, 2009.

Reason for modification:

To allow for the completion of the sediment pond cleaning and time to survey and re-certify the sediment pond in response to a request received on November 25, 2009.

Terminated because:

Vacated because:

DAVE SHAVER
(Print) Permittee Representative
mailed & Faxed
Permittee Representative's Signature - Date

KARL HOUSKEEPER
(Print) DOGM Representative
Karl R. Houskeeper 11/25/09
DOGM Representative's Signature - Date

Refer to the "Citation For Non-Compliance" for additional information