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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

February 20, 2014

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 5918

Kirk Nicholes, Resident Agent
Alton Coal Development LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

Subject: Proposed Assessment for State Violation No. N 10135, Coal Hollow Mine, C/025/0005, Task ID #4500

Dear Mr. Nicholes:

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 January 15, 2014. 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

JCH/sqs
Enclosure
cc: Suzanne Steab, DOGM
Sheri Sasaki, DOGM
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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING

COMPANY / MINE Coal Hollow Mine

PERMIT C/025/0005 NOV / CO # N 10135 VIOLATION 1 of 1

ASSESSMENT DATE February 20, 2014

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?

Loss of reclamation/revegetation potential

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 _5

PROVIDE AN EXPLANATION OF POINTS:
******According to the information in the inspector statement,*** *"If pit #6 & 9 were not backfilled"* and 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 _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)_5___

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,***
"Rough backfilling and grading was to occur within 60 days of the completion of mining".

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 (Immediately following the issuance of the NOV)	-11 to -20*
X	Rapid Compliance (Permittee used diligence to abate the violation)	-1 to -10
X	Normal Compliance (Operator complied within the abatement period required) (Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	0

*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

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:
******The violation has not been terminated.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N 10135**

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	5
III.	TOTAL NEGLIGENCE POINTS	20
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	25
	TOTAL ASSESSED FINE	**$ 440**

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Stree
or PC

City, S

Kirk Nicholes
Alton Coal Development LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

PS Form 3800, August 2006 See Reverse for Instructions