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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 22, 2016

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 6694

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. #21162, Coal Hollow Mine, C/025/0005, Task ID #5068

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, Priscilla Burton on January 20, 2016. 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:

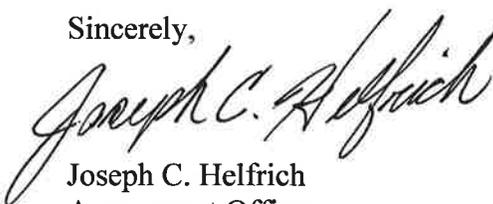
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference 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: Sheri Sasaki, DOGM
Suzanne Steab, 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 21162 VIOLATION 1 of 1

ASSESSMENT DATE February 22, 2016

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>NOV #16150</u>	<u>April 8, 2015</u>	<u>1</u>
<u>NOV #18150</u>	<u>April 28, 2015</u>	<u>1</u>
<u>NOV #20153</u>	<u>July 7, 2015</u>	<u>1</u>
<u>NOV #21157</u>	<u>September 22, 2015</u>	<u>1</u>
<u>NOV #21158</u>	<u>September 22, 2015</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 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?

Environmental harm and 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 20

PROVIDE AN EXPLANATION OF POINTS:

******According to the information in the inspector statement, "Incomplete installation of the drainage pipe from the sump in pit 10 resulted in discharge to DD4 during the month of November 2015. During the inspection in November, the Pit 10 sump was discharging into DD4 at a constant rate while the pond was also being decanted. A constant flow into Pond 3 from DD4 could short-circuit the detention time of the sediment structure, because of its location near the decant structure".***

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 5

PROVIDE AN EXPLANATION OF POINTS:

****** According to the information in the inspector statement, "The Pond 3 DMR sheets for November 2015 were reviewed and exceedence of TSS was noted. The probability of a similar event occurring again is likely, if the second pipe remains with its outlet in DD4. DD4 is not sized to handle a constant flow from Pit 10. The rip rap installation at the outlet of the Pit 10 pipeline is required to protect the pond from scouring".***

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? NA
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS NA

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 25

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 25

PROVIDE AN EXPLANATION OF POINTS:

*** According to the information in the inspector statement, " Completion of the pipe installation was discussed as a priority during a November 2015 inspection, but it was not completed. Therefore the operator was indifferent to DOGM regulations and did not take reasonable care. It should have been evident, but the pipe installation had not been completed and other than extending the pipe into pond 3 with a hose, there was no progress made on removing the second pipe from DD4 and burying it in the trench. Specific permit conditions that were not met include Performance Standard R645-301-752.100, Diversion Construction R645-301-732.300 and Control discharge by energy dissipation R645-301-744.100. Previous violations include Failure to construct according to plan, R645-301-742.313 and R645-301-742.320, NOV 16149 issued 1/26/2015".

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

- 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 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? Resources available on site, easy abatement

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement, "Abatement was completed by February 3, 2016 as shown in photographs sent from Kirk Nichols on February 3, 2015 (Incoming/02/03/2016.5068.pdf). The operator had the necessary resources. Surface Mining had ceased at the site and men were laid off that could have been put to work at this task. The equipment was available. The site is under a foot of snow and that does complicate the work". However when the site was inspected on February 17th the inspector noticed that the**

abatement requirements had not been completed. The abatement period was extended. Good faith will be evaluated upon termination of the violation

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N 21162</u>	
I. TOTAL HISTORY POINTS	<u>5</u>
II. TOTAL SERIOUSNESS POINTS	<u>25</u>
III. TOTAL NEGLIGENCE POINTS	<u>25</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
TOTAL ASSESSED POINTS	<u>55</u>
TOTAL ASSESSED FINE	<u>\$ 3,850</u>