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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

May 2, 2016

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 6786

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. #21165, Coal Hollow Mine, C/025/0005,
Task ID #5101

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 March 9, 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:

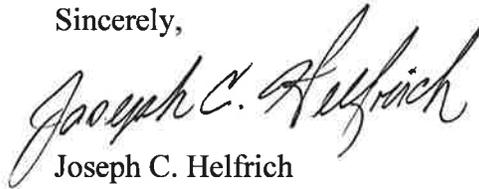
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference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

PERMIT C/025/0005 NOV / CO # N 21165 VIOLATION 1 of 1

ASSESSMENT DATE May 2, 2016

ASSESSMENT OFFICER Joseph C. 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 #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>
<u>NOV #21154</u>	<u>November 28, 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 4

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? *Hindrance*

A. EVENT VIOLATION (Max 45 pts.)

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

PROVIDE AN EXPLANATION OF POINTS:

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 _____

PROVIDE AN EXPLANATION OF POINTS:

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 12

PROVIDE AN EXPLANATION OF POINTS:

*** According to the information in the inspector statement "The facilities map was inaccurate in its depiction of buildings, power supply, and culverts. The intended design for collection and treatment of water from the surrounding slopes and across the coal loading pad was difficult to determine".

TOTAL SERIOUSNESS POINTS (A or B) 12

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 23

PROVIDE AN EXPLANATION OF POINTS:

**** According to the information in the inspector statement, "A request for an updated facilities map Dwg 5-3B had been made during previous inspections, beginning September 22, 2015 Insp. #5304 and again in November 2015 (Insp Rpt #5372, and again on January 12, 2016 (Insp Rpt #5385). On February 1, 2016, a response was received to the inspection report #5385, but the as built was not accurate and was returned. During the complete inspection on March 9, 2016 it was noted again and a violation was written to get an accurate map showing culverts all the UG/Pit 10 facilities. The response to NOV 21165 (Task 5152) was also inadequate and returned on 4/7/2016. No one had field checked the Pit 10 facilities map prior to my doing so on April 6, 2016. A warning was given during the inspection of January 12, 2016 (Insp Rpt 5385) that an as-built map of the UG mine facilities was required by Feb 1, 2016 or a violation would be written. The map received was not accurate and therefore was not acceptable".*

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 or 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 (Permittee used diligence to abate the violation)	-11 to -20*
X	Normal Compliance (Operator complied within the abatement period required)	-1 to -10*
X	Extended Compliance (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)	0

EASY OR DIFFICULT ABATEMENT? *Difficult Abatement plans were required that were prepared by Alton Coal employees (surveyor and engineer)*

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

****According to the information in the inspector statement the 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). The violation was extended to 5/2/2016“Drawing 5-3B is dated March 31, 2016, which was the deadline for submitting the map. The task was field checked by the Division on 4/6/2016. This map does not show the buried water line to the bathhouse, and the connection of the water line to the hydro-conveyance structure on the pad. The map does not show the location of the clean out for the septic system, culverts in the MSHA berm that have been partially buried, water flow coming out of an in-mine sump, parking area, access roads onto the south benches, a seep on the north and east upper bench. The map shows flow along the contour and across the contour around the highwall and fill slope, but does not identify the ditch on the east side by name. The map (Task 5152) was denied/returned on April 8, 2016.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N 21165**

I.	TOTAL HISTORY POINTS	<u>4</u>
II.	TOTAL SERIOUSNESS POINTS	<u>12</u>
III.	TOTAL NEGLIGENCE POINTS	<u>23</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>39</u>

TOTAL ASSESSED FINE \$ 2090