GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

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. #21166, Coal Hollow Mine, C/025/0005, Task ID #5102

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.

1594 West North Temple, Suite 1210, Salt Lake City, UT 84116
PO Box 145801, Salt Lake City, UT 84114-5801
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • *www.ogm.utah.gov*

UTAH DNR
OIL, GAS & MINING

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
O:\025005.COL\WG5102 NOV# 21166\PROPOSED ASSESSMENT 21166.DOC

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

COMPANY / MINE Alton Coal /Coal Hollow Mine

PERMIT C/025/0005 NOV / CO # N 21166 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
NOV #20153	July 7, 2015	1
NOV #21157	September 22, 2015	1
NOV #21158	September 22, 2015	1
NOV #21154	November 28, 2015	1

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? *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?

PROBABILITY	RANGE
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 "Pond water was discharging without passing through the oil skimmer. A leak from Ponds 1 & 2 was first noticed on 3/23/2015 (Inspection Rpt 4145)".*

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 structural weakness may have contributed to the exceedance of TSS, Fe, and Oil & Grease at outfall 001A sited in January by Utah DEQ (Incoming correspondence 1292016)".*

B. HINDRANCE VIOLATION (Max 25 pts.)

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

TOTAL SERIOUSNESS POINTS (A or B)__25__

*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? Easy abatement, the permittee had the parts and equipment necessary to abate the violation and completed the repair work within the abatement period.

ASSIGN GOOD FAITH POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *According to the information in the inspector statement, "At ponds 1 and 2, gaskets were installed at the connection of the oil skimmer and the discharge pipe. The water level in both ponds was observed on 4/6/2016 to be well below the level of the discharge pipe, so the success of the gasket fix can only be determined at higher water levels. However, the Permittee is confident that the gasket was the problem, as the manufacturer recommended installation of the gasket, but this installation had been overlooked by the contractor during the initial construction of the ponds".*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N 21166**

I.	TOTAL HISTORY POINTS	4
II.	TOTAL SERIOUSNESS POINTS	25
III.	TOTAL NEGLIGENCE POINTS	10
IV.	TOTAL GOOD FAITH POINTS	-8
	TOTAL ASSESSED POINTS	31
	TOTAL ASSESSED FINE	**$ 1210**