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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

June 22, 2016

Certified Return Receipt Requested
9590 9402 1201 5246 2589 58

Mr. Robert Nead, Manager
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

Subject: Finalized Assessment for State Notices of Violation, NOV #21162, NOV #21163, NOV #21164, NOV #21165 and NOV #21174, Coal Hollow Mine, Alton Coal Development, LLC, Kane County Utah

Dear Mr. Nead:

The above referenced violations were issued between January 20, 2016 and April 6, 2016. Proposed assessments were completed for each of the violations and sent to you. A request for an informal conference was made and the conference was scheduled for May 5, 2016. Prior to the conference you had determined that an open discussion without attorneys, between the inspectors, OGM and mine management, and the construction supervisor might be more fruitful than holding an assessment conference. The Assessment Conference was subsequently cancelled, but the meeting was still held on May 5, 2016 wherein you conceded to the fact of the violations, but wanted to improve communication between the mine and our office so as to avoid future issues. It was discussed in the meeting that the penalties for the violations could be adjusted based on written information submitted to the Division without having to go through the Assessment Conference process. You were allowed 30 days to submit the information which we would use to produce a final assessment. We received your information on June 2, 2016. Below are the finalized assessments for each violation based on all pertinent data and facts, including your written information. Please note the final assessment total for each of the violations. This amount is due and payable to the Division within 30 days of your receipt of this final assessment. Please remit payment for all five of the violations to the Division, mail c/o Suzanne Steab.

NOV #21162—
Seriousness—In assessing event violation points, the proposed assessment found that water pollution was the event that the violated standard was designed to prevent. Neither the inspection report nor the penalty assessment cite to water quality issues during the inspection. The Probability of the event is changed from occurred to Likely to Occur and the points are reduced to 10. Actual or Potential Damage is low and is left at 5 points.

Negligence—The proposed assessment was originally assigned as Greater Degree of Fault. This would indicate a "knowing " and intentional recklessness, which is not the case. The site was under a foot of snow and operations had ceased. This is considered to be ordinary negligence. Points are reduced to 10.

Good Faith—The violation was terminated on March 9, 2016, although the Inspector statement indicates that it was close to being abated on February 3, 2016. This was considered a difficult abatement as men had been laid off and the work had to be completed with a foot of snow on the ground. The abatement was completed within 45 days which would be in the Normal compliance range. 5 points of good faith are awarded.

	Proposed Assessment	ACD Position	Final Assessment
History	5	5	5
Seriousness			
Event	20	10	10
Damage	5	5	5
Hindrance			
Negligence	25	10	10
Good Faith	0	-10	-5
Total	55	20	25
Penalty	$3850	$440	$550

NOV #21163—
Seriousness—In assessing event violation points, the proposed assessment found that water pollution was the event that the violated standard was designed to prevent. Neither the inspection report nor the penalty assessment cite to water quality issues during the inspection. The Probability of the event is changed from occurred to Unlikely to Occur and the points are reduced to 5. Actual or Potential Damage was proposed at 5 points because of the auger panels could not be backfilled, however the fact that water is accumulated in the pit does not prevent the pit from being backfilled. The Division was aware that the Highwall trench would remain open longer than 60 days and there was no risk that the pit would not be backfilled. Damage points are reduced to 0.

Negligence—The proposed assessment was originally assigned as Greater Degree of Fault. This would indicate a "knowing"and intentional recklessness, which is not the case. The Operator was under the understanding that the backfilling was allowed to be completed during the year 2016. More care should have been taken to make sure that backfilling was occurring within the 60 day timeframe required by rule or a plan change should have been made to allow for the longer timeframe. This is considered to be ordinary negligence. Points are reduced to 10.

Good Faith—The original violation was issued on January 20, 2016 and terminated on June 2, 2016. This was considered a difficult abatement as plans needed to be submitted that identified timeframes for backfilling. Also, a large amount of material needed to be moved to complete the backfill. The abatement timeframe was extended a few times to accommodate the submittal of plans. Because of the extended timeframe for abatement no good faith points are awarded.

	Proposed Assessment	ACD Position	Final Assessment
History	5	5	5
Seriousness			
Event	20	0	5
Damage	5	0	0
Hindrance			
Negligence	25	0	10
Good Faith	0	-10	0
Total	55	0-5	20
Penalty	$3850	$0-$110	$440

NOV #21164—
Seriousness/Hindrance—In the proposed assessment it was determined that conducting activities without appropriate approvals was an event violation. ACD provided information later that indicates that they have provided a reclamation plan for pit 10. The detail of the plan may be what is lacking. This appears to be more of an administrative violation, so I am assigning 5 points under the hindrance category. No event occurred and there is little likelihood of an event occurring.

Negligence—The proposed assessment was originally assigned as Greater Degree of Fault. This would indicate a "knowing" and intentional recklessness, which is not the case. The Operator was under the impression that they had an approved plan. Detail may have been lacking, but this was not a knowing and willful act. A prudent Operator should be aware for the need of plans, but in this case the lack of plans was unintentional. Also, the site was under a foot of snow and operations had ceased. This is considered to be ordinary negligence. Points are reduced to 10.
Good Faith—The violation has been extended and is still not terminated. This violation required the submittal of revised plans so it is considered a difficult abatement. However, no good faith points can be awarded because of the extended abatement time.

	Proposed Assessment	ACD Position	Final Assessment
History	5	5	5
Seriousness			
Event	20	0	N/A
Damage	5	0	N/A
Hindrance			5

Negligence	25	15	10
Good Faith	0	-10	0
Total	55	10	20
Penalty	$3850	$220	$440

NOV #21165—
Seriousness—In assessing event violation points, the proposed assessment found that this violation was a hindrance violation issued for not having accurate facilities map of the Underground Mine Surface facilities. While ACD had revised the drawing DWG 5-3B, the map was inaccurate and did not depict buildings, power supply, culverts or drainage within the pit 10 area. This clearly hindered the inspector from inspecting the facilities area and from knowing what the configuration of facilities should be in the pit 10 area. The proposed assessment of 12 points is considered appropriate and will stand for the final assessment.

Negligence—The proposed assessment was originally assigned as Greater Degree of Fault. This would indicate a "knowing " and intentional recklessness, which is not the case. While it is true that a request for an updated facilities map had been made during previous inspections, it was not clear the detail needed for the map. The Operator did not ignore the request for the updated map and did make a submittal on February 1, 2016 as requested. The map was found to be inaccurate and was not accepted. In fact, drawing 5-3B has been revised 4 times in the last few months, which would indicate that the request for the map is being pursued. It has taken a fairly long time to secure accurate information, but this is more a result of inattention to quality rather than a result of negligence. This would be considered ordinary negligence. Points are reduced to 7.

Good Faith— The violation has been extended and is still not terminated. This violation required the submittal of revised plans so it is considered a difficult abatement. However, no good faith points can be awarded because of the extended abatement time (beyond 90 days).

	Proposed Assessment	ACD Position	Final Assessment
History	4	4	4
Seriousness			
Event			
Damage			
Hindrance	12	0	12
Negligence	23	0	7
Good Faith	0	-1 to -10	0
Total	39	0-4	23
Penalty	$2090	$0-$88	$506

NOV #21174—

Seriousness—In assessing event violation points, the proposed assessment found that water pollution and environmental harm were the events that the violated standard was designed to prevent. However, neither the inspection report nor the penalty assessment cite to water quality issues or environmental harm that occurred during the inspection. Had there been an actual event (water pollution or environmental harm) the abatement would have required more than paperwork and plan revisions. Road signs and speed limits were established as confirmed by a letter from Kane County. It is felt that there is some likelihood that an event could occur. With this, the Probability of the event is changed from occurred to Likely to Occur and the points are reduced to 10. Actual damage was not identified and Potential Damage is considered unlikely and is assigned 5 points.

Negligence—The proposed assessment was originally assigned as Greater Degree of Fault. This would indicate a "knowing " and intentional recklessness, which is not the case. The Operator was in the process of developing a mine site. The Operator felt they were operating according to plans and had installed sediment ponds and ditches. There was some lack of diligence as the construction was not up to specification and certain steps had not been completed in order (bypass road not completed). The violation was unintentional and not knowing although it is felt that ACD should have exercised greater care in the site development. This is considered to be ordinary negligence. Points are reduced to 10.

Good Faith—The violation was terminated on April 19, 2016. This was considered a difficult abatement as plans had to be submitted and approved. The abatement was modified at least two times which added to the difficulty. The violation was issued on April 6, 2016, modified on April 7, 2016, modified again on April 12, 2016 and then terminated on April 19, 2016. The termination notice indicates that the required plans were submitted on April 15, 2016. Thus the abatement was completed within less than 10 days, which was within the established abatement timeframe, which is considered to be in the normal compliance area Actual work on the ground took a little longer and required the inspection to remain open a day longer than anticipated. 10 points of good faith are awarded.

	Proposed Assessment	ACD Position	Final Assessment
History	4	4	4
Seriousness			
Event	20	1-4	10
Damage	10	0	5
Hindrance			
Negligence	20	5	10
Good Faith	0	-10	-10
Total	54	0-13	19
Penalty	$3740	$0-$286	$418

Please note the final assessment total for each of the noted violations. This amount is due and payable to the Division within 30 days of your receipt of this final assessment. Please remit payment for all five of the violations to the Division, mail c/o Suzanne Steab. If you have any questions, please don't hesitate to call me at (801) 538-5325.

Sincerely,

Daron R. Haddock
Assessment Officer

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