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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

November 4, 2016

Certified Return Receipt Requested  
9590 9402 1201 5246 2588 28

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

Subject: Finalized Assessment for State Notice of Violation #21183, Coal Hollow Mine, Alton Coal Development, LLC, Kane County, Utah

Dear Mr. Nead:

The above referenced violation was issued on June 3, 2016 by Division Inspector, Priscilla Burton. A proposed assessment was completed and sent to you on July 1, 2016. On August 9<sup>th</sup> you submitted additional information which the Division has now used to produce this finalized assessment. The violation needed to be abated (which it was on October 25, 2016) in order for the finalized assessment to be completed. Below is the finalized assessment for the violation based on all pertinent data and facts, including your written information. Please note the final assessment total for the violation. This amount is due and payable to the Division within 30 days of your receipt of this final assessment. Please remit payment to the Division, mail c/o Suzanne Steab.

#### NOV #21183

Seriousness---In assessing the event violation points, the proposed assessment indicated that an event had occurred. The event was over-excavation of the excess spoil pile. Approximately 76,500 Cubic Yards of material was cut from the previously undisturbed area. This was done without having the appropriate plan approval. As the event did occur the assessment of 20 points is appropriate. ACD agreed with this assessment in the information provided. The Damage associated with the Event was set at 12 points in the proposed assessment. This reflects the fact that this additional cut had not been contemplated in the approved plan and that additional reclamation and stabilization is now needed for this area. ACD contends that reclamation was still possible using material from the excess spoils pile and that there was no threat to the environment. While the reclamation potential may not have been compromised, the fact that there was an additional 28 foot cut, has the potential to affect the reclamation plan which was not revised or followed at the time of the cut. Because the plan was later revised to account for the additional cut, the points are reduced to 4.



Negligence--- The proposed assessment was originally assigned as Greater Degree of Fault. This would indicate a "knowing" and intentional recklessness. ACD contends that the action was caused by the equipment operator who did not understand the extent of material that could be removed. This would indicate ordinary negligence. This officer agrees. Points are reduced to 15.

Good Faith--- The proposed assessment allowed 15 points for good faith because of the rapid submittal of revised plans that were called for in the abatement. ACD has asked for the maximum points (20) to be awarded. While the Operator did show diligence in submitting plans, it still required additional extensions to work out the deficiencies in the plans. The NOV was not terminated until October 25, 2016, which was an extended amount of time to abate the violation. No further good faith points are warranted. The good faith will remain at 15 points.

	DOGM Proposed Assessment	ACD Position	DOGM Finalized Assessment
Violation History (25 points)	4	4	4
Seriousness			
Event Violation (20 points)	20	20	20
Actual or Potential Damage (0-25 points)	12	0	4
Negligence (30 points)	23	15	15
Good Faith	-15	-20	-15
<b>Total</b>	44	19	28
Penalty	\$2,640	\$418	\$880

Please note that the final assessment for NOV #21183 is set at \$880. This amount is due and payable to the Division within 30 days of your receipt of this final assessment. Please remit payment 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

DRH/ss  
cc: Kirk Nicoles  
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