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

October 10, 2018

CERTIFIED RETURN RECEIPT
9590 9402 1618 6053 1298 26

Kirk Nicholes, Resident Agent
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84720

Subject: Proposed Assessment for State Notice of Violation No. 21194, Alton Coal Development LLC, Coal Hollow Mine, C/025/0005, Task ID #5418

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, Pricilla Burton, on March 15, 2017. 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,

John Webster

John Webster
Assessment Officer

Enclosure
cc: Suzanne Steab, DOGM
Sheri Sasaki, DOGM
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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE: Coal Hollow /Alton Coal Development

PERMIT #: NOV #: 21194 VIOLATION 1 of 1

ASSESSMENT DATE: 10/10/2018

ASSESSMENT OFFICER: John Webster

I. HISTORY (Max. 25 pts.)

A. Are there previous violations, which are not pending or vacated, which fall within one (1) year of today's date? YES / No

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
None		

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 0

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 Administrative (B) violation? B

A. EVENT VIOLATIONS (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? *Likely*

PROBABILITY	POINT RANGE	PROBABILITY	POINT RANGE
Insignificant	1-4	Likely	10-19
Unlikely	5-9	Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS __13__

PROVIDE AN EXPLANATION OF POINTS: *According to the inspectors statement: The Sediment control for the Underground mine were not being maintained (Culverts, ditches, and the sump). The inspector's statement also indicated that, "in order to clear the underground mine of water, it is pumped from the sump to Pond 3. If the water from the sump was pumped to Pond 3 it is likely the pond discharge would be high in TSS and TDS, probably in exceedence of the UPDES limits". Therefore the probability of occurrence was assessed at the low to mid range of likely*

3. What is the extent of actual or potential damage? *Potential Damage*

ASSIGN DAMAGE POINTS (Range 0-25)__17__

PROVIDE AN EXPLANATION OF POINTS: *According to the Inspectors statement, the sediment has filled the upper sump basin, and caused it to overflow which lead to erosion of the dike. The statement also mentioned that the sump as been compromised and if water pumped to pond 3 would be sediment laden. Since the pond is at capacity and being decanted, water pumped from this pond might well exceed TSS and TDS UPDES limits. Therefore the points were assessed at the mid range for potential damage.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS ____N/A____

PROVIDE AN EXPLANATION OF POINTS: _____

TOTAL SERIOUSNESS POINTS (A or B)__00__

III. DEGREE OF FAULT

LEVEL of NEGLIGENCE.	Point Range
No Negligence	0
Negligence	1 - 15
Greater Degree of Fault	16 - 30

STATE DEGREE OF NEGLIGENCE: *Greater Degree of Fault*

ASSIGN NEGLIGENCE POINTS __18__

PROVIDE AN EXPLANATION OF POINTS: *The operator has been cited before for sediment control designs (2015), conditions of the ditches (2016), and failure to maintain the sediment controls (2016). Therefore the points were assigned to the lower end of "Greater Degree of Fault".*

IV. GOOD FAITH (Max 20 pts.)

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

Has Violation Been Abated? YES / NO ,

A. EASY ABATEMENT (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

	Point Range
Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

B. DIFFICULT ABATEMENT (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

	Point Range
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT?

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **N21194**

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	20
III.	TOTAL NEGLIGENCE POINTS	18
IV.	TOTAL GOOD FAITH POINTS	- 0
	TOTAL ASSESSED POINTS	38

TOTAL ASSESSED FINE **$1,980.00**