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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 19, 2019

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

Subject: Fine Payment Required for NOV #21194, Alton Coal Development, LLC, Coal Hollow Mine, Task ID #5418

Dear Mr. Nicholes:

A review of records of the Division of Oil, Gas and Mining shows that the fine in the amount of \$88 for the referenced violation NOV#21194 has not yet been paid. The final assessment was sent December 26, 2018 (copy enclosed). The timeframe to appeal either the fact of this violation or the amount of the assessed fine has lapsed, and the amount assessed is considered final.

Please remit the total payment by July 19, 2019. If you believe the Division records are in error and that you have paid this fine, please provide evidence of the payment, such as a copy of the cancelled check, before the due date.

Failure to pay the assessed fine may result in interest being charged at the rate established quarterly by the U.S. Department of the Treasury or referring the amount due to the Utah Attorney General for appropriate collection action.

If you have any questions, please feel free to call me at (801) 538-5350.

Sincerely,

Steve Christensen
Coal Program Manager

SKC/sqs
Enclosure
O:\025005.COL\WG5418 NOV21194\Final Payment Required.doc





Suzanne Steab <suzannesteab@utah.gov>

Final Fine Assessment NO21194

1 message

Dana Dean <danadean@utah.gov>

Wed, Dec 26, 2018 at 2:59 PM

To: Kirk Nicholes <knicholes@altoncoal.com>

Cc: Suzanne Steab <suzannesteab@utah.gov>, Daron Haddock <daronhaddock@utah.gov>, Steve Christensen <stevechristensen@utah.gov>, Priscilla Burton <priscillaburton@utah.gov>, John Webster <jwebster@utah.gov>

Hi Kirk and Drew,

Please see the final fine for NO21194 attached to this email. You may appeal the amount of the fine to the Board within 30 days of receipt of this email, but the time to appeal the fact of the violation has passed.

I greatly reduced the fine based on the facts you presented in writing and at the Conference on December 7. As per your testimony there were no UPDES exceedances at Pond 3, which significantly changes the situation from what the inspector felt might be possible at the time information was given to the Assessment Officer. This is the reason for the significant reduction in points as explained on the final assessment sheet attached.

I would like to point out that the language in your memo claiming that the inspector had written this violation because of bias or because OSM was present, were unnecessary and untrue. Priscilla was doing her job and I am confident she would do it the same no matter who was watching. I am aware that she worked with you to fix things many times rather than resorting to immediate issuance of violations, which is what I would expect of my team. I hope that you and she will continue to work well together as she will be involved in permitting and bond-release matters as we move forward.

Please let me know if you have questions,

Thank you,

Dana

Dana Dean, P.E.
Associate Director - Mining
Utah Division of Oil, Gas and Mining

ogm.utah.gov

 **20181226145218.pdf**
56K

UTAH DIVISION OF OIL, GAS AND MINING
WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES

COMPANY: Alton Coal Development, LLC
 PERMIT: C/025/0005
 VIOLATION: NO21194
 DATE: December 26, 2018

ASSESSMENT CONFERENCE OFFICER:  Dana Dean

	Proposed Assessment	Final Assessment
(1) History/Previous Violations	<u>0</u>	<u>0</u>
(2) Seriousness	<u>30</u>	<u>4</u>
(3) Negligence	<u>18</u>	<u>8</u>
(4) Good Faith	<u>0</u>	<u>-8</u>
Total Points	<u>48</u>	<u>4</u>

TOTAL ASSESSED FINE \$88.00

Explanation:

Reduction of seriousness points as follows:

Probability of occurrence from 13 (likely) to 4 (insignificant) because the likelihood of the Pit 10 area filling and overflowing into other areas is highly unlikely. All drainage from this area would still report to Pond 3 whether pumped there or through an overflow situation. Pond 3 was the only pond that did not report any UPDES exceedances after the high storm flow events in this time frame.

Damage from 17 (mid-range) to 0 because there were no offsite impacts and the increased sediment that reported to Pond 3 did not result in any UPDES permit exceedances.

Reduction of negligence points from 15 (greater degree of fault) to 8 (negligence). This area had not been attended to, but the company testified that it was a low priority because they were

working on a long list of issues caused by the high storm flow events that had higher priority and could have led to offsite impacts if not attended to first.

Addition of good-faith points due to rapid compliance and all issues from the high storm flow events having been resolved before the next inspection. (the NOV did not name an abatement date)