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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

December 3, 2014

CERTIFIED RETURN RECEIPT
7012 3460 0002 9559 6106

Kenneth E. May, General Manager
Canyon Fuel Company, LLC
597 South SR24
Salina, Utah 84654

Subject: Proposed Assessment for State Violation No. N13151, Sufco Mine, C/041/0002, Task ID #4695

Dear Mr. May:

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, Joe Helfrich, on date, October 1, 2014. 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. Information provided at an Informal Conference has also been considered.

Under R645-401-700, there are two informal appeal options available to you:

1. You have already appealed the fact of this violation, and an Informal Conference was held on October 29, 2014. This conference was conducted by the Division Director, John Baza who issued the Findings of Fact, Conclusions of Law, on November 20, 2014, upholding the fact of the violation. The Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

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 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,



Daron R. Haddock
Assessment Officer

Enclosure

cc: Suzanne Steab, DOGM
Sheri Sasaki, DOGM

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

Canyon Fuel Company/ Sufco Mine

PERMIT C/041/0002 NOV # N 13151 VIOLATION 1 of 1

ASSESSMENT DATE December 3, 2014

ASSESSMENT OFFICER Daron R. Haddock

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
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

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 HINDRANCE (B) violation? Hindrance

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?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS NA

PROVIDE AN EXPLANATION OF POINTS:

*****According to the information in the inspector statement,**

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 NA

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information in the inspector statement,**

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? Actual RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 13

PROVIDE AN EXPLANATION OF POINTS:

***** This violation was issued for not conducting coal mining and reclamation operations only as described in the approved application. The recovery and storage of soil resources deviated from the approved plan which resulted in the Inspector being hindered from being able to determine whether or not the soil resources were being adequately protected. It was determined in the Informal Conference that the operator was not prompt in submitting as-built information in response to the Division's July 1, 2014 request for such information. This resulted in an Actual hindrance determination, which would equate to points in the upper half of the range. However, the operator actually salvaged more material than was actually called**

for in the plan, which was a good thing and thus the assignment of points in the lower end of the upper half of the range.

TOTAL SERIOUSNESS POINTS (A or B) 13

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

**** According to the information in the inspector statement, the Operator was indifferent to the DOGM regulations. The Operator had chosen to deviate from the approved plan and then was slow in submitting the as-built information. Lift #5 as-builts were returned to the Operator on July 1, 2014 with the request for a Map showing the location of soil storage. The as-builts were only provided on October 9, 2014 (3 months later and after the violation). It is felt that this was ordinary negligence in providing the as-built information, thus the assignment of points in the middle of the Negligence range.*

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20*
X	Rapid Compliance (Permittee used diligence to abate the violation)	-1 to -10
X	Normal Compliance	0

(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of
approved Mining and Reclamation Plan)

*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? _____

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

******Good faith will be evaluated upon termination of the violation. The NOV requires the
submittal and approval of plans and the Operator does have the resources necessary for
completing this. However, the NOV has not been abated to date, so no good faith is
warranted.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 13151

I.	TOTAL HISTORY POINTS	<u> 0 </u>
II.	TOTAL SERIOUSNESS POINTS	<u> 13 </u>
III.	TOTAL NEGLIGENCE POINTS	<u> 8 </u>
IV.	TOTAL GOOD FAITH POINTS	<u> 0 </u>
	TOTAL ASSESSED POINTS	<u> 21 </u>

TOTAL ASSESSED FINE \$ 462

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