6586

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

June 3, 2015

CERTIFIED RETURN RECEIPT
7014 0150 0000 1194 2951

David McMullin
CS Mining, LLC
PO Box 608
Milford, UT 84751

Subject: Proposed Assessment for State Notice of Violation No. MN-2015-62-02, CS Mining, LLC, Hidden Treasure Mine, M/001/0067, Beaver County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. McMullin:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced notice of violation. The NOV was issued by Division inspector, Peter Brinton, on April 20, 2015. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of $2970.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this NOV has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

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

The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by July 2, 2015). Please remit payment to the Division, mail c/o Sheri Sasaki.

Sincerely,

Lynn Kunzler
Assessment Officer

LK: eb
Enclosure: Proposed assessment worksheet
cc: Sheri Sasaki, Accounting
Vickie Southwick, Exec. Sec.
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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

NOV / CO #: MN-2015-62-02 PERMIT: M/001/0067
COMPANY / MINE CS Mining / Hidden Treasure Mine

ASSESSMENT DATE June 1, 2015
ASSESSMENT OFFICER Lynn Kunzler

I. HISTORY (Max. 25 pts.) (R647–7-103.2.11)

A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
None	N/A	0

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647–7-103.2.12)

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? EVENT (A)
(assign points according to A or B)

A. EVENT VIOLATIONS (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
Operating without appropriate approvals,
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	POINT RANGE
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS: *Inspector indicated that the event did occur. The operator did not provide any information regarding this violation. Therefore points were assigned at the 'Occurred' level.*

3. What is the extent of actual or potential damage: *Most damage would not extend off the permitted area. However, topsoil salvage at the toe of the dumps may extend beyond the current permit limits, thus the permit would need to be amended.*

ASSIGN DAMAGE POINTS(RANGE 0-25) **7**

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

PROVIDE AN EXPLANATION OF POINTS: *Since most damage would occur within the permitted area, points were assigned at mid-point of the lower ½ of the range.*

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) 27

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

A. IF SO--NO NEGLIGENCE; or, , IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (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?)	1-15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?	16-30

STATE DEGREE OF NEGLIGENCE_____

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS: *While operator did permit the expansion with DEQ, they showed indifference or lack of diligence to DOGM rules and requirements. The Inspector indicated that there was economic benefit to the operator, which indicates a greater degree of fault. Points were therefore assigned at 1/3 of the 'greater degree of fault' range.*

IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment) *Good faith is not considered for this assessment since the violation has not been fully abated or terminated to date.*

Has Violation Been Abated? *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? *Since plans were required, this is considered a difficult abatement situation.*

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS: _

V. ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	27
III.	TOTAL NEGLIGENCE POINTS	20
IV.	TOTAL GOOD FAITH POINTS	
	TOTAL ASSESSED POINTS	47

TOTAL ASSESSED FINE **$2970.00**