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

January 29, 2016

CERTIFIED RETURN RECEIPT
7014 2870 0001 4231 9494

Tracy Burnham
Eureka Rock, LLC
1584 South 580 East
American Fork, UT 84003

Subject: Proposed Assessment for State Notice of Violation No. MN-2015-42-04, Eureka Rock, LLC., Eureka Rock Mine, S/023/0094, Juab County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Burnham:

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, Wayne Western, on September 29, 2015. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of $286.00. 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 February 29, 2016). 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.
P:\GROUPS\MINERALS\WP\M023-Juab\S0230094-EurekaRock\non-compliance\MC-2015-42-04\Passltr-6889-01262016.doc

WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

NOV / CO #: MN-2015-42-04 PERMIT: S/023/0094
COMPANY / MINE Eureka Rock, LLC. / Eureka Rock

ASSESSMENT DATE January 26, 2016
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		

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? Administrative (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?

_____.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS: _____

3. What is the extent of actual or potential damage?: ____.

ASSIGN DAMAGE POINTS (Range 0-25)__**0**____
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: _____.

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 ___**5**_____

PROVIDE AN EXPLANATION OF POINTS: _____*While not submitting annual reports does not greatly hinder the Division, there had been contact information that had changed which is more serious in nature. It is important that the correct contact and address information be current. Points are assigned at the lower 1/5 range.*

TOTAL SERIOUSNESS POINTS (A or B)__**5**____

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

LEVEL of NEGLIGENCE.	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligent (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: *Negligent*

ASSIGN NEGLIGENCE POINTS __**8**___

PROVIDE AN EXPLANATION OF POINTS: *While the operator had ignored requests for annual reports and permit fees, the inspector indicated that this was a case of normal negligence. Points assigned at the mid-point of the negligent 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)

Has Violation Been Abated? Yes.

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? *Easy Abatement*

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS: *U under the Easy Abatement scenario, Good Faith points are only awarded for Immediate or rapid compliance. Since this is considered normal compliance, good faith points are not awarded.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	5
III.	TOTAL NEGLIGENCE POINTS	8
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	13

TOTAL ASSESSED FINE **$286.00**