Task: 5215

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

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Division Director

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Lieutenant Governor

January 30, 2013

CERTIFIED RETURN RECEIPT
7011 0110 0001 3568 0468

Jim Runquist
TME Asphalt Ridge LLC
4526 Ridgeview Drive
Eagan, Minnesota 55123

Subject: Proposed Assessment for State Cessation Order No.MC-2013-59-02 TME Asphalt Ridge; TME AR Lecy Project, S/047/0088, Uintah County, Utah

Response Due By: March 4, 2013

Dear Mr. Runquist:

The referenced cessation order was issued by Division inspector, Leslie Heppler, on January 8, 2013. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of $990.00. 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 Cessation Order 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. 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 the fact of the violation and/or and proposed penalty assessment, you should file a written request for an informal assessment conference within thirty (30) days of receipt of this letter. If both the fact of the violation and the proposed assessment are to be reviewed, the fact of the violation will be reviewed first, with the proposed assessment review immediately following.

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 March 4, 2013). 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\M047-Uintah\S0470088 TME AR Lecy\non-compliance\MC-2013-59-02\ProAssess-01302013.doc

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

NOV / CO #: MC-2013-59-02 PERMIT: S/047/0088
COMPANY / MINE TME Asphalt Ridge, LLC / TME AR Lecy Project

ASSESSMENT DATE January 30, 2013
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? Event
(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?
Reduced potential for reclamation success and Environmental Harm.
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 15

PROVIDE AN EXPLANATION OF POINTS: *Inspector indicated the operator had been given several extensions to provide the increased surety – The increase in surety amount for this project first requested in September of 2012. Lack of diligence to provide the require surety indicates a likelihood that the surety may be forfeited. Points therefore assigned at the mid point of the 'likely' range.*

3. What is the extent of actual or potential damage: *The site has significant disturbance that could not be fully reclaimed with the current bond amount*

ASSIGN DAMAGE POINTS(RANGE 0-25) **4**

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: *No actual damage, potential damage could be significant. Escalation is just past due, vs. 3 years past due(see MC-2013-59-01) Therefore points assigned at the mid-point of the lower half of the point 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 NA

PROVIDE AN EXPLANATION OF POINTS: _

TOTAL SERIOUSNESS POINTS (A or B) 19

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
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 10

PROVIDE AN EXPLANATION OF POINTS: *Operator has made no apparent attempt to provide adequate surety, and had been given several time extensions to do so. Points therefore assigned at the upper portion of the 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? 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: *Violation is not abated at the time of this assessment. Therefore good faith points cannot be awarded at this time. The operator still has time to abate this violation and receive good faith points with a re-assessment.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	19
III.	TOTAL NEGLIGENCE POINTS	10
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	29

TOTAL ASSESSED FINE: $990.00