Task : 5064

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

GREGORY S. BELL
Lieutenant Governor

March 6, 2013

CERTIFIED RETURN RECEIPT
7011 0110 0001 3568 0796

Jeff Fawcett
Color Country Rock, LLC.
2160 Panorama Parkway
St. George, UT 84790

Subject: Proposed Assessment for State Notice of Violation No. NOV/CO # MC-2012-17-04, Color Country Rock LLC., Vermillion Mine, S/053/0076, Washington County, Utah

Response Due By: 30 Days of Receipt

Dear Mr. Fawcett:

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, Lynn Kunzler, on September 4, 2012. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of $44.00. 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, 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 April 15, 2013). Please remit payment to the Division, mail c/o Sheri Sasaki.

Sincerely,

Wayne H. Western

Wayne H. Western
Assessment Officer

WHW: eb
Enclosure: Proposed assessment worksheet
cc: Sheri Sasaki, Accounting
Vickie Southwick, Exec. Sec.
IP:\GROUPS\MINERALS\WP\M053-Washington\S0530076-Vermillion\non-compliance\MC-2012-17-04\Proposed Assessment Letter and Worksheet.doc

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

NOV / CO #: MC-2012-17-04 PERMIT: S/053/0076
COMPANY / MINE Color Country Rock/Vermillion Mine

ASSESSMENT DATE March 5, 2013
ASSESSMENT OFFICER Wayne H. Western

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 reclamation potential in the event of bond forfeiture.

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 5

PROVIDE AN EXPLANATION OF POINTS:

Operator was still in operation at the time of the event.

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

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: *There was no damage and the Operator has a history of reclaiming sites.*

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)__12_____

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 __0_____

PROVIDE AN EXPLANATION OF POINTS: *Bond was no longer valid because the back that issued a letter of credit to receivership with the FDIC*

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 / 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 -10

PROVIDE AN EXPLANATION OF POINTS: Had problems with bank completing the forms.

V. ASSESSMENT SUMMARY (R647-7-103.3)

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	12
III.	TOTAL NEGLIGENCE POINTS	0
IV.	TOTAL GOOD FAITH POINTS	-10
	TOTAL ASSESSED POINTS	2
	TOTAL ASSESSED FINE	**$ 44.00**