

EXHIBIT 4 to Table E (Continued)

ASSESSMENT CONFERENCE REPORT
(Continued)

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Company Name: Anyole Coal Company

Permit No: BH-A03

Citation No: WBG-091-000-001(1)

Violation 1 of 3

Narrative:

(Brief explanation of reasons for any changes in assignment of points and any additional information that was presented at the conference.)

Four (4) points good faith awarded for rapid abatement combined with extraordinary measures. Citation was hand served on 12-10-86 with abatement date of 12-22-86, after modification. This allowed 12 days to resolve the problem. Citation was terminated on 12-18-86; within 8 days or in 66.67% of the time allowed for resolution. Inspector's statement commented on good faith efforts and the Operator furnished a sworn affidavit (see attached).

Operator agreed to the revised assessment, signed the consent agreement and rendered full payment.

Full explanation or rationale should be made for any changes or modifications of assessment. In addition documents should be attached or identified that constitute the basis for change.

A brief statement of settlement or non-settlement should be made

All modifications or revisions of assessments should be documented and made a part of the case file. Sworn statements can be obtained or copies of actual documents. There needs to be justification in every instance that caused a revision, reduction or affirmation of assessment. Submitted documents need to be reviewed and evaluated as to whether the assessment as proposed can be modified. Sufficient time may be allowed for the Operator to supply documentation but firm deadlines should be established.

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STATEMENT OF LLOYD SMITH

I, Lloyd Smith, Manager of Anyole Coal Company, make the following statements to demonstrate extraordinary efforts taken by Anyole Coal Company to achieve rapid resolution of the violation cited under NOV 86-091-000-001(1), More Tipple, located in Campbell County, Tennessee.

(1) There were three men pulled from active production mine #2, Anderson County, Tennessee which is approximately 15 miles away.

(2) I used two of the men to immediately start treating the basin with agricultural lime. The other man was dispatched to LaFollette approximately 8 miles away to secure additional chemicals. For this purpose, I utilized the truck normally used at the active mine site to transport the men and to purchase the chemicals.

(3) After treating and monitoring the basin it was determined that some improvement had been accomplished but the basin was still not within acceptable limits.

(4) An engineering firm was contacted and a representative came to the site. It was recommended a different treatment system be employed and the engineer drew up plans and specifications. The specifications were delivered to a welding shop in Jacksboro and the new system was manufactured. When completed two men were dispatched to secure the new system and return it to the tipple site for installation. The cost of the engineer, construction of the new system, delivery and installation was \$3,121.77. Cost of the chemicals was an additional \$223.84.

(5) When the new system was installed and it was determined the basin was in compliance, a call was made to the Inspector. The Inspector came to the site, made an analysis of the discharge and issued termination of the violation on December 18, 1986.

(6) The resolution of the violation incurred the use of three men for eight (8) days and the exclusive use of the truck for the entire period. This also involved the bulk of my time to supervise and monitor the activities to resolve the violation.

EXHIBIT 4 to Table E (Continued)

Statements should be sworn, notarized and furnished prior to or at the scheduled conference. If the statement was not prepared in advance it may be rendered at a later date or taken during the conference process. Conference Officers have been delegated the authority to administer oaths and the Operator should be asked to confirm that the statements rendered are true and accurate.

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Lloyd Smith, being duly sworn says that the statement made in the foregoing is true to the best of his knowledge.

Lloyd Smith

Lloyd Smith, Manager

State of Tennessee
County of Campbell

Sworn to before me and subscribed in my presence this the 10th day of March, 1987.

Surie Jones

Notary Public

EXHIBIT 4 to Table E (Continued)

Settlement should be achieved if at all possible. A consent agreement is used to affirm settlement. The settlement agreement should be executed and signed at the scheduled conference unless the representative can not sign and render necessary payment. The consent agreement can be prepared and furnished to the representative to be returned by a given date.



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
530 Gay St., S.W., Suite 500
Knoxville, TN. 37902

RE: Anvole Coal Company :
----- :
Operator :
: NOV 86-091-000-001(1)
:

CONSENT ASSESSMENT OF CIVIL PENALTY
(Full Payment)

THIS AGREEMENT is made and entered into this 11th day of
rch, 1987, by and between Anvole Coal Company ("the
operator") and the Office of Surface Mining Reclamation and
Enforcement, U.S. Department of the Interior ("OSM").

WHEREAS, pursuant to its authority under the Surface Mining
Control and Reclamation Act of 1977 ("the Act") and regulations
promulgated thereunder, OSM has issued to the Operator Notice of
Violation ("NOV") No. 86-091-000-001(1), charging the Operator
with one or more violations of said Act and regulations at the
Operator's surface coal mining operation in Campbell County,
Tennessee, operated under Permit No. 88-A03; and

WHEREAS OSM has proposed a civil penalty assessment in the
amount of \$1,600.00 for said violation; and

WHEREAS the parties wish to settle all outstanding issues
arising out of the issuance of said NOV and proposed assessment;

NOW, THEREFORE, in consideration of the above premises and
the conditions set forth herein, the parties agree as follows:

1. A civil penalty in the amount of \$1,200.00 is hereby
assessed for the violation cited in the above referenced NOV.
This assessment is now final, and any rights the Operator may
otherwise have had to contest the proposed penalty assessment are
expressly waived.

EXHIBIT 4 to Table E (Continued)

Two original consent agreements should be prepared. Once payment is rendered the payment is identified and one copy is given to the Operator or representative as a receipt. The Conference Officer will never sign this form until payment is rendered as this constitutes receipt of settlement.

2. Receipt of check no. 300 in the amount of
\$ 1,200.00 is hereby acknowledged in full payment of
said final penalty assessment (provided any personal check timely
clears the financial institution on which it is written).

Anycle Coal Company
Operator

By Lloyd Smith
Signature

LLOYD SMITH
Name (print or type)

MANAGER
Title

OFFICE OF SURFACE MINING

By: Billy R. Kneisley
Signature

Billy R. Kneisley
Assessment Conference Officer

Payments are immediately transmitted to the Lockbox, either by a Conference Officer who has been delegated as a collection officer or by another designated collection officer at the field or area office. An abstract should accompany each deposit.

Department of the Interior
Office of Surface Mining
Abstract of Remittances

SAMPLE

Deposit Ticket No.: _____

Date of Deposit: _____

Type: Knoxville Field Office

Item No.	Transaction Number	Name of Remitter & Check Number	Description	Acct. Number	Amount
		Anyole Coal Co. Check No. 300 Dated 3/11/87	Civil Penalties assessed against Anyole Coal Co. NOV 86-91-000-1 FULL PAYMENT	141099	\$1,200.

Anyole Coal Company (615) 555-7225 P.O. Box 000 Jellico, Tn 37762		No. 300
UPTOWN BANK Jellico, Tennessee 37762		<u>March 11</u> 19 <u>87</u>
Pay <u>One Thousand Two Hundred and 00/100</u>		DOLLARS <u>\$1200⁰⁰</u>
To The Order Of: <u>Office of Surface Mining</u>		Anyole Coal Company <u>Blond Smith</u>
000001111-1111-3333 <u>86-91-000-1 (.)</u>		

The above listed remittance(s) received by: Patricia Baumgardner Date 3-11-87
Collection Officer (Field Office)

The above listed remittance(s) received and deposited by: _____ Date _____
Collection Officer (Denver)

2.10 Corrections of Conference Officer Documents

If errors are discovered in Conclusion of Conference reports, that have been previously submitted and mailed, corrections will be made as follows:

a. original pages, containing errors, should remain in the report, with a statement on the bottom of the specified page indicating that a correction follows.

b. a new page including the correction, follows the original page containing the error(s). The Conference Officer initials and dates the correction(s).

c. copies of the complete, corrected Conclusion of Conference report, containing original and corrected pages, should be submitted to BCPA, the operator if applicable, and the Conference Officer case file. The word "corrected" followed by the current date, should be placed under the original date on the Conclusion of Conference letter.

following sections and are in generalized terms. The specifics are contained in the Assessment Manual within the Civil Penalty Section. Questions concerning proposed assessment may be addressed by contacting the BCPA.

3.2 History

The threshold for the criteria, history, is ten (10) points so if this accumulation of points is reached for history a penalty must be assessed. The assessment of history points follows a given formula: one (1) point for each separate NOV violation at the same site within a previous 12-month period; five (5) points for each separate violation in the CO at the same site within a previous 12-month period. Same site has been defined as a permitted area. To be assessed history points the previous violations must have been finalized. Violations are not finalized until the entire review process is complete. If a permittee fails to exercise the right of review, the violation is complete as of the date the permittee's right to review expires. It is also noted if a violation is vacated, the violation is not used in assembling history points.

The BCPA will review the previous violations found in the permittee case file and propose the assessment points based on their findings. The Conference Officer must ascertain that the proposed assessment of points are valid and all NOV's and CO's were included. History points may be affirmed, raised or lowered depending on the results of the research and also on data supplied by the permittee in the conference.

3.3 Seriousness

In determining the assessment in the criteria; seriousness, the first aspect to consider is whether it should be categorized as an event, potential event or if it was an obstruction. Events are violations that cause or potentially could cause environmental damage, personal injury, or property damage which could or did result from the violation of the regulation. The threshold for seriousness is twenty-one (21) points.

Seriousness is subdivided into two elements of consideration in the assessment of penalty points; the probability of occurrence and the extent of potential or actual damage. Under CFR 30 Part 845.13(b)(2)(i), probability of occurrence points are to be assessed as follows:

- | | |
|-----------------------|--------------|
| (a) occurred | 15 points |
| (b) likely to occur | 10-14 points |
| (c) unlikely to occur | 5-9 points |
| (d) insignificant | 1-4 points |
| (e) none | 0 points |

The extent of potential or actual damage penalty points are assessed as follows:

- (a) damage which could extend off-permit 8-15 points
- (b) damage confined within permit 0-7 points

Based on the facts presented in the violation, inspector's report and statement or other documentation concerning the violation the assessor determines the applicable categories within seriousness and assigns penalty points within the two elements. If damage for instance would occur only within the permit area, the starting assessment would be three (3) points and move up or down depending on the mitigating circumstances. If damage could extend beyond the permit area the starting assessment would be eight (8) points and move up to the maximum of fifteen (15). The determination of occurrence should be fine-tuned to the compounding circumstances. In the insignificant, unlikely and likely categories the assessor begins at midrange, three (3), seven (7), and twelve (12), respectively, and moves up or down depending on the mitigating or exacerbating circumstances. Developing an understanding for the relative severity of particular situations will determine how an assessor or Conference Officer decides within the point scales.

The permittee during the conference may present information concerning the seriousness of the violation. The information may create the need to affirm, raise or lower the proposed assessment based on the presented information. Normally the actual violation plus the inspector's report and statement will be used as the documentation for the assessment of penalty points relating to seriousness.

3.4 Obstructions

Obstructions are those violations which prevent the inspector from reviewing the overall operations of the mine in determining compliance with regulations. Similarly, violations which prevent the public from identifying the minesite or exercising rights under the Act are considered obstructions. The threshold of points in the criteria; obstruction, is ten (10) points.

Obstruction violations generally involve the permittee's failure to keep records, authorizations, approved plans, or maps at or near the minesite, thereby obstructing the inspector, or the failure to post proper permit or perimeter signs which might hinder public or inspector identification of the minesite. The specific guidelines of obstruction assessment is contained in the Assessment Manual and point assignments have been developed for mine identification signs and other obstruction violations (see Appendix A of Table B). The assessment of points is generally that actual obstruction is assessed in the 10-15 point range while potential obstruction is assessed in the 1-9 point range.

When the violation constitutes an obstruction, the assessment is based on the degree which the violation prevented or impeded enforcement by an inspector or enforcement initiated by the public.

When it appears that a violation could result in either an obstruction or an event, it may be necessary to contact the inspector to clarify the situation. Was the particular violation more of an obstruction to enforcement or was it clear that damage had already occurred or was likely to occur?

3.5 Negligence

Assessing this criterion involves a determination of the permittee's degree of fault in committing a violation, either through an act or failure to act. The regulations specify the standard of reasonable care for permittees. It is the permittee's responsibility to learn and follow the regulations. The threshold for the criteria; fault, is thirteen (13) points.

The following are the four categories of degree of fault as defined by regulations and BCPA policy:

- | | |
|---------------------------------|--------------|
| (a) no negligence | 0 points |
| (b) negligence | 1-12 points |
| (c) recklessness | 13-20 points |
| (d) knowing and willful conduct | 21-25 points |

A no negligence situation is where the operator acted prudently but a violation occurred anyway due to either an Act of God or vandalism. While the permittee cannot prevent the occurrences it can become negligence if the operator does not fix it promptly. When no negligence on the permittee's part can be discerned, no points should be given.

30 CFR Part 845.13(b)(3)(ii)(B) states: "Negligence means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act or this Chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care."

30 CFR Part 845.13(b)(3)(iii) states: "In calculating points to be assigned for negligence, the acts of all persons working on the coal exploration or surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued, unless that person establishes that they were acts of deliberate sabotage."

Ignorance of the law is not a no negligence situation. Permittee's are charged with the duty of knowing the regulations. In conflicting cases between jurisdictional agencies such as the State and Federal requirements, the violation would be under

Federal law but the degree of fault would be low. Negligence is the failure of a permittee to exercise the degree of care normally expected of a careful and reasonable operator. Negligent acts include committing an act which constitutes a violation, failing to do something that is required, or attempting to do a requirement but doing it improperly.

As the regulations establish what is considered the standard of reasonable care, almost every violation involves some degree of fault. In assessing under negligence the assessor should always start at twelve (12) points and work down for any moderating circumstances. Thirteen (13) to twenty (20) points are assessed for recklessness depending on the specifics of the violation. Generally where recklessness is involved, the assessor starts at thirteen (13) and assesses upward depending on compounding circumstances. The legal definition of recklessness is disregard of a known or obvious high risk. A permittee is reckless where it would have been obvious to a reasonable operator that the course of action (an action or failure to take action) was likely to cause a serious amount of damage or harm, and the operator followed the course anyway. Reckless conduct also exist in those instances where the operator is engaged in activities inherently dangerous, and requires a greater degree of care to insure safety.

Knowing or willful conduct is when the permittee is aware there is, or will be, a violation of the regulations and fails to correct or avoid the situation. A permittee is considered to be knowing or willful when:

- (a) A specific permit condition is violated.
- (b) The State has previously warned or cited regarding the same situation on the same site and there is documentation of the warning or citation.
- (3) OSM has previously warned or cited regarding the same situation on the same site and there is documentation of the warning or citation.

The point levels for knowing/willful violations are strictly delineated. Specific permit condition violations are assessed at twenty-one (21) to twenty-two (22) points depending on the seriousness of the violation. If there were State warnings or citations, twenty-three (23) points are assessed. If there were prior OSM warnings or citations, the point total should be twenty-four (24). When a wildcatter (an operator without a permit) is involved, the maximum assessment of twenty-five (25) points should be made.

3.6 Good Faith

The Conference Officer shall consider good faith of the person to whom the notice or order was issued in attempting to

achieve rapid compliance after notification of the violation. Rapid compliance means that measures were taken to abate the violation in the shortest possible time and abatement was achieved before the time allowed for abatement. Normal compliance is when the person to whom the notice or order was issued, abated the violation at the time given for abatement.

Points for good faith may be awarded as follows:

- | | |
|---|-----------|
| (a) Normal compliance or lack of abatement | 0 |
| (b) Rapid compliance + extraordinary measures | -1 to -10 |

Considerations of good faith would be the examination of initiative, consistency, and commitment of resources, to determine if extraordinary measures were employed in addition to the rapid abatement. Initiative would be how quickly or thoroughly the operator began work to abate the violation. Consistency would measure or examine the degree of effort or completeness employed to eliminate the problem or violation. Commitment of resources would involve the securing of additional equipment or personnel, interrupting coal removal, expending extra manhours and resources, or other special measures taken to remedy the situation in the fastest available means.

The following shall be used as a guide in awarding good faith points; recognizing, to award good faith there must be documentation that extraordinary measures were used, in addition to rapid compliance. In calculating the time set for abatement, include any extension of time given by the inspector for extenuating circumstances. Extraordinary measures must be fully documented by either obtaining actual documents reflecting the efforts taken or an affidavit from the operator sworn and notarized outlining the measures employed (a sample affidavit is presented under Exhibit 18).

Good Faith Determination Points

- | | |
|---|-----|
| (a) Abatement occurs immediately or within 10 percent of time set | -10 |
| (b) Abatement occurs within 11 to 20 percent of time set | -9 |
| (c) Abatement occurs within 21 to 30 percent of time set | -8 |
| (d) Abatement occurs within 31 to 40 percent of time set | -7 |
| (e) Abatement occurs within 41 to 50 percent of time set | -6 |
| (f) Abatement occurs within 51 to 60 percent of time set | -5 |
| (g) Abatement occurs within 61 to 70 percent of time set | -4 |
| (h) Abatement occurs within 71 to 80 percent of time set | -3 |
| (i) Abatement occurs within 81 to 90 percent of time set | -2 |
| (j) Abatement occurs within 91 to 98 percent of time set | -1 |

TABLE A:

CONVERSION OF POINTS

Under Notices of Violation or imminent harm Cessation Orders the chart below is a conversion of the number of assigned points to a dollar amount which will dictate the civil penalty to be assessed.

CHART 1

<u>Points</u>	<u>Dollar Assessment</u>	<u>Points</u>	<u>Dollar Assessment</u>
1	20	36	1,600
2	40	37	1,700
3	60	38	1,800
4	80	39	1,900
5	100	40	2,000
6	120	41	2,100
7	140	42	2,200
8	160	43	2,300
9	180	44	2,400
10	200	45	2,500
11	220	46	2,600
12	240	47	2,700
13	260	48	2,800
14	280	49	2,900
15	300	50	3,000
16	320	51	3,100
17	340	52	3,200
18	360	53	3,300
19	380	54	3,400
20	400	55	3,500
21	420	56	3,600
22	440	57	3,700
23	460	58	3,800
24	480	59	3,900
25	500	60	4,000
26	600	61	4,100
27	700	62	4,200
28	800	63	4,300
29	900	64	4,400
30	1,000	65	4,500
31	1,100	66	4,600
32	1,200	67	4,700
33	1,300	68	4,800
34	1,400	69	4,900
35	1,500	*70 or more	5,000

*maximum to be assessed

TABLE A: (Continued)

For a Cessation Order a civil penalty of \$750 shall be assessed for each day which failure to abate continues and for each separate violation within the order. Penalty for the failure to abate shall not be assessed for more than 30 days nor less than 1 day for each violation, unless the citation was vacated.

CHART 2

<u>Days</u>	<u>Dollar Assessment</u>
1	750
2	1,500
3	2,250
4	3,000
5	3,750
6	4,500
7	5,250
8	6,000
9	6,750
10	7,500
11	8,250
12	9,000
13	9,750
14	10,500
15	11,250
16	12,000
17	12,750
18	13,500
19	14,250
20	15,000
21	15,750
22	16,500
23	17,250
24	18,000
25	18,750
26	19,500
27	20,250
28	21,000
29	21,750
30	*22,500

*maximum to be assessed

TABLE B

ASSESSMENT GUIDELINES

These guidelines are extracted and general in nature; the specifics are contained in the Assessment Manual. If there are questions on assessments they should be addressed to the Branch of Civil Penalty Assessments (BCPA) through the appropriate channels.

1. History (Threshold 10 points)

*1 point for each separate NOV at the same site within previous 12-month period

*5 points for each separate violation in the CO at the same site within previous 12-month period

* must have been finalized and not vacated.

2. Seriousness (Threshold 21 points - combination of a&b below)

a. Probability of Occurrence:

(1) occurred	15 points
(2) likely to occur	10-14 points
(3) unlikely to occur	5-9 points
(4) insignificant	1-4 points
(5) none	0 points

b. Extent of Damage

(1) extends off-permit	8-15 points
(2) confined within permit area	0-7 points

3. Obstruction (Threshold 10 points) - see appendix A

a. actual	10-15 points
b. potential	1-9 points

4. Fault (Threshold 13 points)

a. no negligence	0 points
b. negligent	1-12 points
c. recklessness	13-20 points
d. knowing/willful	21-25 points
(1) specific permit violation	21-22 points
(2) previous State warning/citation	23 points
(3) previous OSM warning/citation	24 points
(4) wildcat operation	25 points

5. Good Faith (Rapid Compliance + Extraordinary Measures)
- | | |
|---|------------|
| a. immediate abatement or within 10 percent of time | -10 points |
| b. within 11 to 20 percent of time | -9 points |
| c. within 21 to 30 percent of time | -8 points |
| d. within 31 to 40 percent of time | -7 points |
| e. within 41 to 50 percent of time | -6 points |
| f. within 51 to 60 percent of time | -5 points |
| g. within 61 to 70 percent of time | -4 points |
| h. within 71 to 80 percent of time | -3 points |
| i. within 81 to 90 percent of time | -2 points |
| j. within 91 to 98 percent of time | -1 point |

Criteria of Extraordinary Measures

To demonstrate employment of extraordinary measures the following criteria can be used as a measurement:

Initiative - how quickly operator began to abate violation?

and

Consistency - once work for abatement began how consistently did the operator work?

and

Commitment of Resources - was additional help or equipment hired to abate violation? Was coal removal interrupted? Were additional hours worked? Was at least 1/3 of the operators equipment placed on abatement of the citation?

*SAMPLE WORDING FOR AWARDING GOOD FAITH

_____ points good faith awarded for rapid abatement plus extraordinary measures employed. NOV was issued on _____, served to operator on _____, with abatement date of _____; thus giving _____ days for abatement. Violation was abated on _____. Number of days from date of service until the NOV was abated was _____. Abatement occurred within _____ percent of the time set for abatement. Extraordinary measures consisted of:

*NOTE: To award good faith there must be documentation provided that will confirm or display both the rapid abatement and the extraordinary measures that were employed. The rapid abatement is normally displayed or documented by the inspector's citation and the termination or abatement document. Exhibit 18 is a sample affidavit that may be used by the operator to attest to the extraordinary measures that were employed.

APPENDIX To TABLE B

OBSTRUCTION POINTS GUIDELINE

This list is only a general category of problems encountered under obstruction and is not totally encompassing. Other categories may develop or be encountered and will be assessed as they occur.

1. Permit Sign Violations

- a. No Sign Posted 8 points
- b. Sign posted but incomplete data 2 points
for each
missing item

2. Failure to Provide Mine Maps

- a. Lack of map obstructed inspector's inspection 10 points
- b. Lack of map but no actual obstruction 8 points
- c. Lack discovered during administrative check 8 points

3. Failure to Submit Surface or Groundwater Monitoring Plan

- a. Failure to submit - obstructed 10 points
- b. Failure to submit - no obstruction 6 points

4. Failure to Implement Surface or Groundwater Monitoring Plan

- a. Failure obstructed inspector 10 points
- b. Failure did not obstruct inspector 8 points

5. Failure to Maintain Proper Blasting Records

- a. No blasting records exist and blasting has occurred 11+ points
- b. Missing information and could not be extrapolated from records 10 points
- c. Missing information but can be extrapolated from records 8 points

6. Failure to Have All Applicable Permits at Mining Office

- a. All necessary information not provided 10 points
- b. Necessary information provided by operator 8 points
- c. Actual permit made available before inspection was completed 8 points

7. Failure to Have a Prime Farmland Survey
 - a. All failures to have a survey or negative determination 10 points
8. Failure to Have Structures Certified by a Registered Engineer
 - a. A problem is observed 10 points
 - b. no problem observed 8 points
9. Failure to Post Perimeter Markers
 - a. Off-site damage has occurred - change to event and assess under seriousness
 - b. No off-site damage 8 points
10. Failure to Post Blasting Signs
 - a. Potentially Dangerous 8-15 points

TABLE C

GENERAL PROCEDURAL GUIDELINES

These guidelines and the attached flow-chart depict the outline of events and activities normally encountered in the conference procedure. Deviations may occur and will require modification or decisions by the Conference Officer to resolve the issues.

1. Inspection is held and the operator is served with a Notice of Violation (NOV) or a Cessation Order (CO). Operator can exercise any of the appeal rights outlined in Chapter 1, Part 1.2.

2. Assessment office receives a copy of the citation, normally within ten (10) days of the inspection uncovering the violation.

3. Assessment office within thirty (30) days, prepares a Notice of Proposed Assessment (NOPA) and sends the NOPA to the operator along with a blank request for informal conference.

4. Within thirty (30) days of the receipt of the NOPA package, the operator may submit a request for informal conference and return it to the assessment office.

5. If a request for informal conference is submitted, the request is evaluated and, approval or disapproval, is granted by DSM within five (5) days.

6. The approved requests for conferences are dispatched to the office having jurisdiction of the mining site and the request is further issued to the Conference Officer for scheduling of conference. The conference is to be concluded within sixty (60) days of receipt of the approval letter or from the date of abatement, whichever is later. Under special conditions, this sixty (60) day period may be waived.

7. Conference Officers must review the request package and assure the citation is valid and the NOPA is in order. Any questions or discrepancies should be resolved prior to contact with the operator. All appropriate internal documentation should be secured relating to the citation which would include but is not limited to:

- a. Copy of the citation
- b. Copy of all modifications
- c. Copy of termination or vacation, if appropriate
- d. Inspector's statements and narratives

8. When all documents are secured and in order, the

operator should be contacted and a conference scheduled. The Conference Officer discusses any possible revision of assessment points, and documentation required for the proposed revisions, with reviewer.

9. The Conference Appointment Letter will be sent to the operator and a copy posted in the office having jurisdiction over the mine site, at least five (5) days prior to the scheduled conference.

10. The conference site is scheduled and necessary seating and equipment arranged.

11. The Conference Officer introduces self and explains the conference process. (If the operator fails to appear and does not call to request another conference appointment, the conference may be concluded and conclusion of conference letter sent to the operator.)

12. The Conference Officer asks attendees at the conference to complete the sign-in sheet, including signature and title.

13. The conference is conducted, and the Conference Officer either obtains documents to support any proposed revision of the assessment, or in the absence of relevant documentation, proposes to affirm the penalty.

14. The Conference Officer evaluates documents and testimony given by the operator, and gains concurrence with reviewer and/or manager for rendering a final assessment.

15. If the operator does not agree to settle, the Conference Officer explains the hearing process and prepares the conclusion of conference.

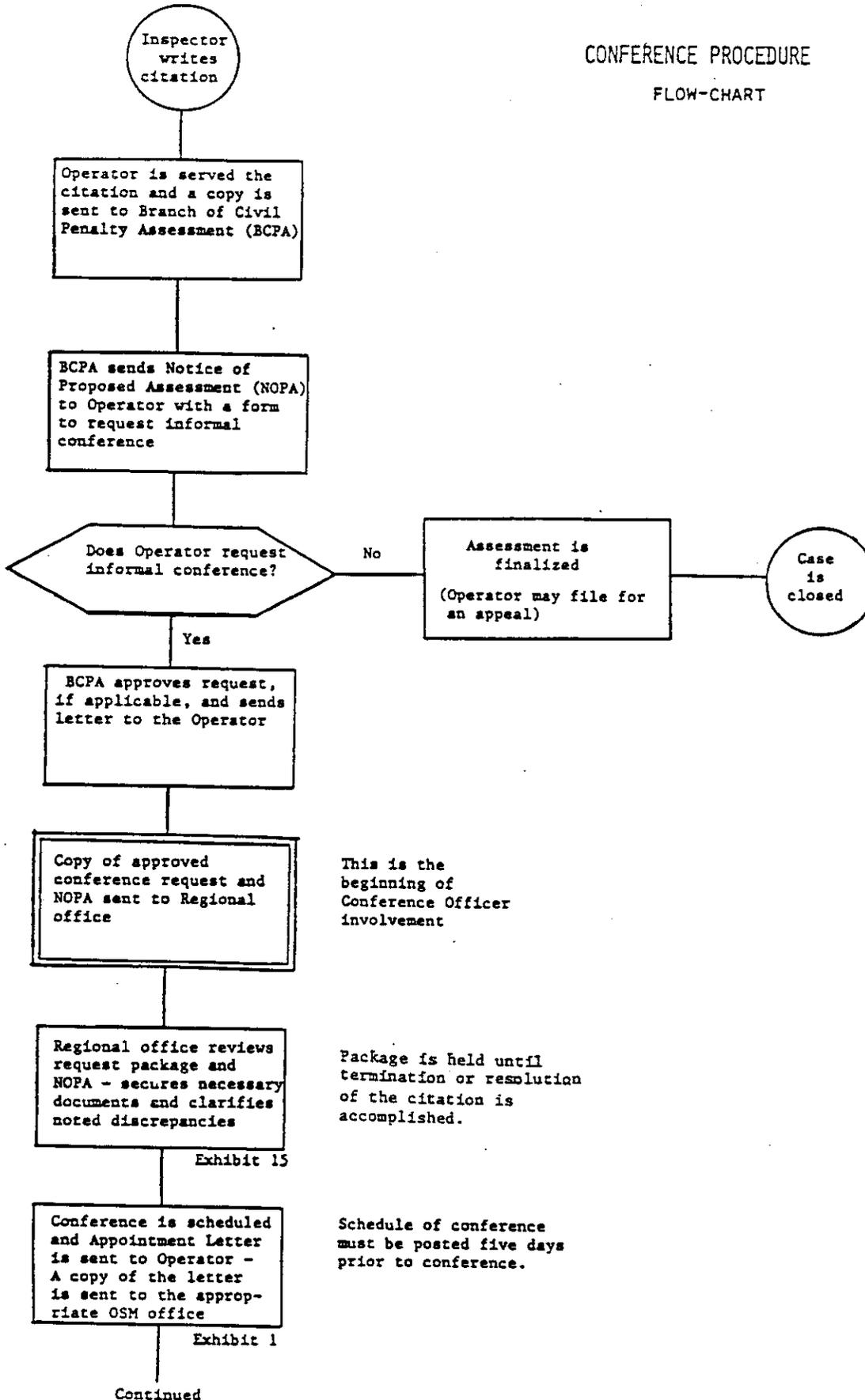
16. If operator agrees to settle, a consent agreement is prepared, and the operator signs the agreement and submits a check for the penalty amount.

17. If operator agrees to settle but needs to pay the penalty in installments, a consent agreement and payment plan agreement are prepared, and the operator signs the agreements, and submits a check for a down payment of a minimum of 10% of the penalty amount.

18. Prepare Conclusion of Conference Report and appropriate conclusion letter. (See Table D for index of forms)

19. Document the statistics of the conference and send the concluded case to Washington D.C.

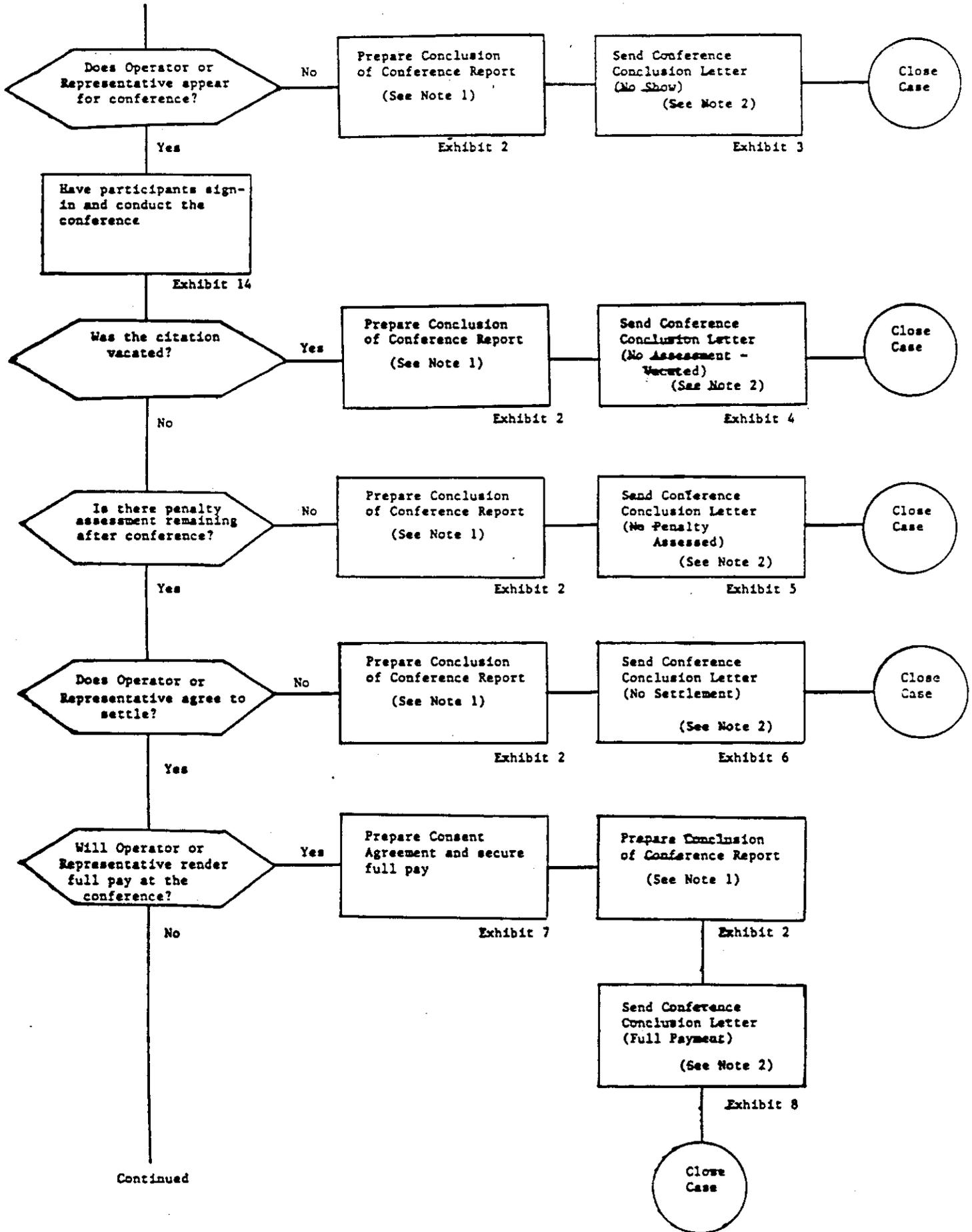
CONFERENCE PROCEDURE
FLOW-CHART



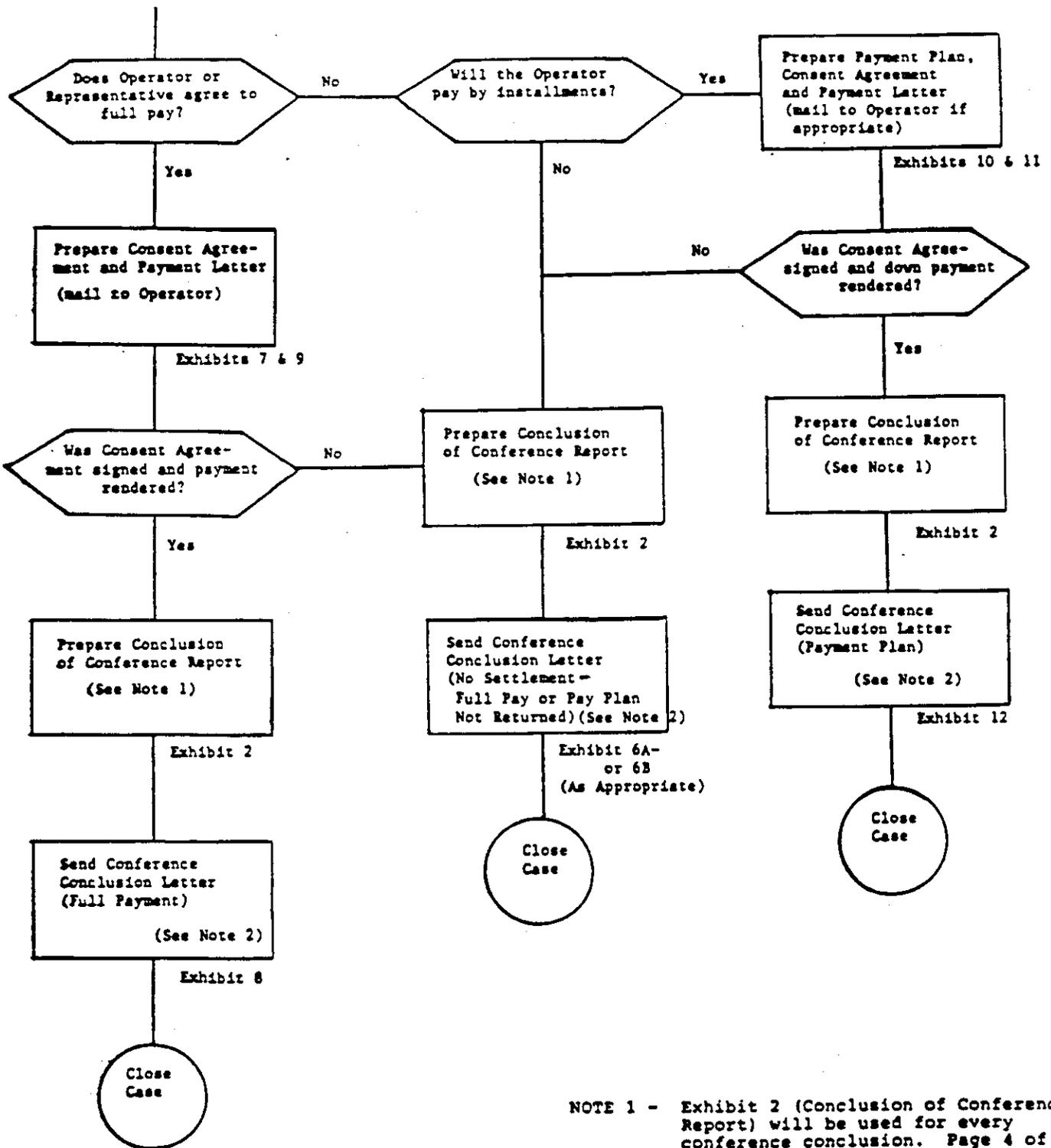
This is the beginning of Conference Officer involvement

Package is held until termination or resolution of the citation is accomplished.

Schedule of conference must be posted five days prior to conference.



APPENDIX TO TABLE C (CONTINUED)



NOTE 1 - Exhibit 2 (Conclusion of Conference Report) will be used for every conference conclusion. Page 4 of this report is a narrative continuation and used only if needed.

NOTE 2 - Prior to sending out the Conference Conclusion Letter the case must be reviewed and accepted by the Program Manager. The Conclusion of Conference Report and the Conference Conclusion Letter will be left undated until approval is granted. Once approval is rendered the date will be entered and necessary distribution accomplished.

Table D

EXHIBIT INDEX

The attached exhibits are the forms and letters normally used in the conference procedure. Requests for deviations or modifications of these exhibits should be forwarded to the Conference Program Manager.

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1.	Appointment Schedule Letter	73
2.	Conference Conclusion Report	74
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EXHIBIT 1 - Appointment Letter

* * * * *

Mr. Bert L. Jones, President
Jones & Smith Fuels Inc
102 N. Broadway, Suite 7
Anytown, Arkansas 72301

Subject: Jones & Smith Fuels Inc
C86-099-099-006(1) Permit: 2280000

Dear Mr. Jones:

You have been scheduled an assessment conference on the above referenced citation for February 11, 1987 at 1:30 p.m. at the following address:

Department of the Interior
Office of Surface Mining
530 Gay Street, S.W., Room 408
Knoxville, Tennessee 37902

Please be prepared to submit any material for consideration before or during the conference which concerns the violations or the penalties. You should be prepared to finalize the case at the conclusion of the conference which may include making payment for the agreed penalties. This conference can be held in person, by telephone, or by submitting any written material received by the scheduled conference date. Any person has a right to attend and participate in the conference.

If it is necessary to reschedule the conference due to circumstances beyond your control, please contact me at (615) 673-1234. Only one rescheduling will be considered.

Sincerely,

(name)
Assessment Conference Officer

* * * * *

NOTE: If contact is made with the person requesting the conference, this letter may be sent regular mail. If contact was unable to be established, this letter should be sent certified to assure receipt. If the letter is to be sent certified sufficient time must be allowed in the scheduling to allow receipt of the letter prior to the scheduled conference.

EXHIBIT 2 - Conference Conclusion Report (Page 1 of 4)

ASSESSMENT CONFERENCE REPORT

Page 1 of 2

Knoxville Field Office

Company Name: Jones & Smith Fuels Inc

Permit No: 2280000

Citation No: C86-099-099-006(1)

Type of Conference: ___ in person X telephone ___ letter.

Date of Conference: February 12, 1987

<u>Persons in Attendance</u>	<u>Title</u>
<u>Bert L. Jones</u>	<u>President</u>

<u>Violation No.</u>	<u>Amount of Assessment As Revised</u>
<u>1 of 1</u>	<u>\$22,500.00</u>

\$22,500.00

Approved: _____ Date: _____
(Signature of Conference Officer)

EXHIBIT 2 - Conference Conclusion Report (Page 2 of 4)

ASSESSMENT CONFERENCE REPORT
(Continued)

Page 2 of 2

Company Name: Jones & Smith Fuels Inc

Permit No: 2280000

1. Citation No: C86-099-099-006(1)

Violation 1 of 1

(a) Nature of Violation: Failure to abate N86-099-099-022(1)
Failure to post a sign at the access point of the designated
permit area.

(b) Date For Abatement: FTA Date Served: 10-16-86
Date of Termination: Not terminated
as of conference

2. Conference Result	Proposed Assessment	Conference Assessment
(a) History/Prev. Violation	-----	-----
(b) Seriousness		
(1) Probability of Occurrence	-----	-----
Extent of Damage	-----	-----
(2) Obstruction to Enforcement	-----	-----
(c) Negligence	-----	-----
(d) Good Faith	-----	-----
TOTAL POINTS	30 days @ 750	30 days @ 750
TOTAL AMOUNT ASSESSMENT	\$22,500.00	\$22,500.00

EXHIBIT 11. Letter Sent to Secure Payment Plan

Mr. Robert E. Hoops, Vice President
American Federal Mining Co
P.O. Box 140000
Anytown, Tennessee 37777

Re: Assessment Conference for: American Federal Mining Co
Violation No. 1 of 2 N88-099-111-000(2)
Permit: 88-107

Dear Mr. Hoops

In accordance with our Assessment Conference of May 20, 1987, I am enclosing a Consent Assessment of Civil Penalty (Payment Plan) in two copies for your signature. This consent agreement settles the assessment conference for the Notice of Violation 88-099-111-000(2) and provides for an installment agreement of \$2,200.00. A down payment of \$220.00 is to be returned within five (5) days of the date of this letter with both signed copies of the Consent Assessment of Civil Penalty (Payment Plan), to the following address:

Office of Surface Mining
530 Gay St., S.W., Suite 408
Knoxville, Tennessee 37902

The monthly payments of \$173.17 will be due by the first day of each month beginning July 1, 1987. Your Conference Conclusion and one copy of the Consent Assessment of Civil Penalty (Payment Plan) acknowledging receipt will be forwarded with your monthly Civil Penalty Remittance Forms upon receipt of the above mentioned check and signed copies of the consent agreement.

If you have any questions in reference to this matter, please call me at (615) 673-1234.

Sincerely,

Assessment Conference Officer

Enclosure:

2 copies - Consent Assessment of Civil Penalty (Payment Plan)

personal checks timely clear the financial institution on which they are written.

4. So long as the Operator complies with the terms of this agreement, OSM will forego collection of any late payment penalties and administrative costs that may accrue because of the Operator's failure to pay the final penalty assessment in full within 30 days of the date of the final assessment, and OSM will take no action to deny, suspend, or revoke a permit on account of such failure.

5. If at any time the Operator shall fail to comply with the terms of this agreement, the entire unpaid balance of the final penalty assessment, together with any interest and all late payment penalties and administrative costs accrued thereon, shall become immediately due and payable. If said amount is not paid thereafter, OSM may exercise any and all remedies available to it, including but not limited to the initiation of court proceedings and the taking of action to deny, suspend, or revoke a permit.

6. Failure of OSM at any time to require performance of any provision of this agreement shall not affect OSM's right to require full performance thereof at any subsequent time. The waiver by OSM of any default shall not constitute the waiver of any subsequent default; and the exercise or non-exercise of any remedy by OSM shall not bar the exercise of any other remedy that may be available to OSM.

Operator

By: _____
Signature

Name (print or type)

Title

Company Address

City/Town, State, Zip Code

Telephone to include area code

OFFICE OF SURFACE MINING

By: _____
Signature

Assessment Conference Officer

* * * * *

EXHIBIT 10 - Consent Agreement - Pay Plan

* * * * *

RE: Veterans Coal Inc-

NOV 86-099-276-334(1)

Operator

CONSENT ASSESSMENT OF CIVIL PENALTY
(Payment Plan)

THIS AGREEMENT is made and entered into this 7th day of November, 1986, by and between Veterans Coal Inc ("the Operator") and the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior ("OSM").

WHEREAS, pursuant to its authority under the Surface Mining Control and Reclamation Act of 1977 ("the Act") and regulations promulgated thereunder, OSM has issued to the Operator Notice of Violation ("NOV") No. 86-099-276-334(1), charging the Operator with one or more violations of said Act and regulations at the Operator's surface coal mining operation in Anderson County, Tennessee, operated under Permit No. 88-107; and

WHEREAS OSM has proposed a civil penalty assessment in the amount of \$2,400.00 for said violation; and

WHEREAS the parties wish to settle all outstanding issues arising out of the issuance of said NOV and proposed assessment;

NOW, THEREFORE, in consideration of the above premises and the conditions set forth herein, the parties agree as follows:

1. A civil penalty in the amount of \$2,200.00 is hereby assessed for the violation cited in the above referenced NOV. This assessment is now final, and any rights the Operator may otherwise have had to contest the proposed penalty assessment are expressly waived.

2. The Operator shall pay \$220.00 as down payment, and the balance of said amount, together with interest thereon at the rate of seven (7) percent per annum, in equal monthly installments of \$173.17 each, payable on the first day of each month, beginning January 1, 1987, and continuing until said amount has been paid in full. (The amount of the final installment payment shall be adjusted to equal the amount of unpaid balance, plus any interest accrued thereon.).

3. All payments required under this agreement shall be made by personal check, certified check, or money order, made payable to "Office of Surface Mining" and mailed to:

Office of Surface Mining
Reclamation and Enforcement
P.O. Box 360292 M
Pittsburgh, PA 15251

Payments shall be deemed made when received, provided any

EXHIBIT 9 -Letter Sent For Full Pay

* * * * *

Mr. Timothy J. Elf, Superintendent
Some Creek Mining Company Inc
PO Box 48000
Someplace, Tennessee 37777

Re: Assessment Conference for: Some Creek Mining Co Inc
Violation No. 2 of 2 N86-099-099-099(2)
Permit: 2222

Dear Mr. Elf:

This confirms our conference of February 10, 1987 and settlement of above reference citation.

Attached is a Consent Assessment of Civil Penalty (Full Payment) for signature in two copies. The signed agreements should be returned within five (5) days from receipt of this letter to:

Office of Surface Mining
530 Gay St., S.W., Suite 408
Knoxville, Tennessee 37902

A check or money order in the amount of \$500.00 should accompany the signed agreements. Upon receipt of the signed agreements and the full payment, acknowledgment will be made and one copy will be returned to you as receipt of full payment.

If you have questions, please call me at (615) 673-1234.

Sincerely,

Assessment Conference Officer

Enclosure:

2 copies Consent Assessment of Civil Penalty (Full Payment)
* * * * *

EXHIBIT 8 -Conference Conclusion Letter -Full Pay

CONCLUSION OF CONFERENCE

Mr. W. H. Boatman, Owner
W H Boatman Coal Company
Route 1, Box 8444
Anytown, Tennessee 37777

Re: Assessment Conference for: W H Boatman Coal Company
Violation No. 1 of 1 of N86-099-087-099(1)
Permit: OSM #25555

Dear Mr. Boatman:

This letter formally concludes the conference relating to the above violation.

After reviewing all of the information supplied to me at the conference and all other information available to me concerning the above violation, pursuant to 30 CFR Part 723, I am affirming the assessment for the above mentioned violation as shown on the attached Assessment Conference Report.

The Assessment Conference Report shows the dollar amount of the civil penalty associated with each violation for which the conference was held and reflects changes, if any, resulting from the conference. It also shows the point values assigned for the proposed assessment and the point values assigned as a result of the conference.

As you chose to resolve this matter through a Consent Assessment of Civil Penalty (Full Payment) and payment was received, this matter has been settled. If you have any questions which are not answered by this letter, you may call me at (615) 673-1234.

Sincerely

Assessment Conference Officer

Enclosure

cc: C. Carter
Branch of Assessments

EXHIBIT 7 - Consent Agreement - Full Pay (Continued)

* * * * *

2. Receipt of check no. _____ in the amount of \$ _____ is hereby acknowledged in full payment of said final penalty assessment (provided any personal check timely clears the financial institution on which it is written).

Black Rock Mining Co Inc
Operator

By _____
Signature

Name (print or type)

Title

OFFICE OF SURFACE MINING

By: _____
Signature

Assessment Conference Officer

* * * * *

EXHIBIT 7 - Consent Agreement - Full Pay

* * * * *

E: Black Rock Mining Co Inc : NOV 86-099-100-099(2)
Violation 2 of 2

Operator

CONSENT ASSESSMENT OF CIVIL PENALTY
(Full Payment)

THIS AGREEMENT is made and entered into this 10th day of February, 1987, by and between Black Rock Mining Co Inc ("the Operator") and the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior ("OSM").

WHEREAS, pursuant to its authority under the Surface Mining Control and Reclamation Act of 1977 ("the Act") and regulations promulgated thereunder, OSM has issued to the Operator Notice of Violation ("NOV") No. 86-099-100-099(2), charging the Operator with one or more violations of said Act and regulations at the Operator's surface coal mining operation in Anyole County, Tennessee, operated under Permit No. 2222; and

WHEREAS OSM has proposed a civil penalty assessment in the amount of \$1,500.00 for said violation; and

WHEREAS the parties wish to settle all outstanding issues arising out of the issuance of said NOV and proposed assessment;

NOW, THEREFORE, in consideration of the above premises and the conditions set forth herein, the parties agree as follows:

1. A civil penalty in the amount of \$500.00 is hereby assessed for the violation cited in the above referenced NOV. This assessment is now final, and any rights the Operator may otherwise have had to contest the proposed penalty assessment are expressly waived.

EXHIBIT 6B -Conference Conclusion Letter -(No Settlement -
Full Pay Not Returned) (Continued)

* * * * *

The proceeds of your check or money order will be held in escrow and if, after administrative or judicial review, it is found that there was no violation or that the proposed penalty was too high, the balance will be refunded to you with interest at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

If you do not make a timely request for a hearing with respect to a violation, the proposed assessment for that violation will become final and will be due and payable within 30 days from the receipt of this letter. Payments should be made by check or money order payable to "Assessment Office--OSMRE" and sent to:

Office of Surface Mining
Reclamation and Enforcement
P.O. Box 360292 M
Pittsburgh, PA 15251

To assure proper credit of your payment, you must note on the check or money order the violations for which payment is being made.

Please read this letter carefully. If you have a question which is not answered by this letter, you may call me at (615) 673-1234.

Sincerely

Assessment Conference Officer

Enclosure

cc: C. Carter

Branch of Assessments

* * * * *

EXHIBIT 6B -Conference Conclusion Letter - (No Settlement -
Full Pay Not Returned)

* * * * *

CONCLUSION OF CONFERENCE

Mr. John D. Sanders, Engineer
Outplace Coal Corporation
P.O. Box 555
Anytown, Tennessee 37870

Re: Assessment Conference for: Outplace Coal Corp
Violation No. 1 of 1 of N86-099-171-020(1)
Permit EWN 86-86-86

Dear Mr. Sanders:

Reference is made to the letter to you dated January 8, 1987. As the Consent Assessment of Civil Penalty (Full Payment) for the above violation has not been signed and returned to this office, this letter formally concludes the conference relating to the above violation.

After reviewing all of the information supplied to me at the conference and all other information available to me concerning the above violation, pursuant to 30 CFR Part 723, I am revising the assessment for the above mentioned violation as shown on the attached Assessment Conference Report.

The Assessment Conference Report shows the dollar amount of the civil penalty associated with the violation for which the conference was held and reflects changes, if any, resulting from the conference. It also shows the point values assigned for the proposed assessment and the point values assigned as a result of the conference.

If you wish a formal hearing to contest the revised or affirmed assessments, you must submit a petition for review within 15 days after the date you receive this letter to:

U.S. Department of the Interior
Office of Hearing and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

Your petition must be accompanied by a check or money order payable to "Assessment Office--OSMRE" in an amount equal to the total of the revised or addressed assessments for which you are requesting a hearing. If you fail to submit the check or money order with your petition, or if the check is returned for nonpayment, or if the check or money order is written for an amount less than the proposed assessments, you may forfeit your right to a hearing. To assure proper credit for your payment, you must note on your check or money order the violations for which the contested assessments are being made.

EXHIBIT 6A-Conference Conclusion Letter -(No Settlement -
Pay Plan Not Returned, Continued)

* * * * *

check or money order the violations for which the contested assessments are being made.

The proceeds of your check or money order will be held in escrow and if, after administrative or judicial review, it is found that there was no violation or that the proposed penalty was too high, the balance will be refunded to you with interest at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

If you do not make a timely request for a hearing with respect to a violation, the proposed assessment for that violation will become final and will be due and payable within 30 days from the receipt of this letter. Payments should be made by check or money order payable to "Assessment Office--OSMRE" and sent to:

Office of Surface Mining
Reclamation and Enforcement
P.O. Box 360292 M
Pittsburgh, PA 15251

To assure proper credit of your payment, you must note on the check or money order the violations for which payment is being made.

Please read this letter carefully. If you have a question which is not answered by this letter, you may call me at (615) 673-5126.

Sincerely

Assessment Conference Officer

Enclosure

cc: C. Carter
Branch of Assessments

* * * * *

EXHIBIT 6A - Conference Conclusion Letter -(No Settlement -
Pay Plan Not Returned)

* * * * *

CONCLUSION OF CONFERENCE

Mr. John J. Jones, President
ABC Coal Company
Route 1, Box 343
Someplace, Tennessee 37777

Re: Assessment Conference for: ABC Coal Company
Violation No. 1 of 1 of N86-099-099-099(1) Permit: 88-888

Dear Mr. Jones:

Reference is made to my letter to you dated November 31, 1986. As the Consent Assessment of Civil Penalty (Payment Plan) for the above violation has not been signed and returned to this office, this letter formally concludes the conference relating to the above violation.

After reviewing all of the information supplied to me at the conference and all other information available to me concerning the above violation, pursuant to 30 CFR Part 723, I am affirming the assessment for the above mentioned violation as shown on the attached Assessment Conference Report.

The Assessment Conference Report shows the dollar amount of the civil penalty associated with the violation for which the conference was held and reflects changes, if any, resulting from the conference. It also shows the point values assigned for the proposed assessment and the point values assigned as a result of the conference.

If you wish a formal hearing to contest the affirmed assessment, you must submit a petition for review within 15 days after the date you receive this letter to:

U.S. Department of the Interior
Office of Hearing and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

Your petition must be accompanied by a check or money order payable to "Assessment Office--OSMRE" in an amount equal to the total of the affirmed assessment for which you are requesting a hearing. If you fail to submit the check or money order with your petition, or if the check is returned for nonpayment, or if the check or money order is written for an amount less than the proposed assessment, you may forfeit your right to a hearing. To assure proper credit for your payment, you must note on your

requesting a hearing. If you fail to submit the check or money order with your petition, or if the check is returned for nonpayment, or if the check or money order is written for an amount less than the proposed assessment, you may forfeit your right to a hearing. To assure proper credit for your payment, you must note on your check or money order the violations for which the contested assessments are being made.

The proceeds of your check or money order will be held in escrow and if, after administrative or judicial review, it is found that there was no violation or that the proposed penalty was too high, the balance will be refunded to you with interest at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

If you do not make a timely request for a hearing with respect to a violation, the proposed assessment for that violation will become final and will be due and payable within 30 days from the receipt of this letter. Payments should be made by check or money order payable to "Assessment Office--OSMRE" and sent to"

Office of Surface Mining
Reclamation and Enforcement
P.O. Box 360292 M
Pittsburgh, PA 15251

To assure proper credit of your payment, you must note on the check or money order the violations for which payment is being made.

Please read this letter carefully. If you have a question which is not answered by this letter, you may call me at (615) 673-1234.

Sincerely,

Assessment Conference Officer

Enclosure

cc: C. Carter
Branch of Assessments

* * * * *

EXHIBIT 6 - Conference Conclusion Letter (No Settlement)

* * * * *

CONCLUSION OF CONFERENCE

Mr. Bert L. Smart, President
Lazy River Fuels Inc
1028 N. Broadway, Suite 7
Anytown, Arkansas 72301

Re: Assessment Conference for: Lazy River Fuels Inc
Violation Nos. 1 & 2 of 2 of C86-099-099-006(2)
Permit: 2222222

Dear Mr. Smart:

This letter formally concludes the conference relating to the above violations.

After reviewing all of the information supplied to me at the conference and all other information available to me concerning the above violations, pursuant to 30 CFR Part 723, I am affirming the assessment for the above mentioned violations as shown on the attached Assessment Conference Report.

The Assessment Conference Report shows the dollar amount of the civil penalty associated with each violation for which the conference was held and reflects changes, if any, resulting from the conference. It also shows the point values assigned for the proposed assessment and the point values assigned as a result of the conference.

If you wish a formal hearing to contest the revised or affirmed assessment, you must submit a petition for review within 15 days after the date you receive this letter to:

U.S. Department of the Interior
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

In your petition, you may include a request for a formal hearing on the fact of the violation if you have not previously been granted or denied such a hearing.

Your petition must be accompanied by a check or money order payable to "Assessment Office--OSMRE" in an amount equal to the total of the revised or affirmed assessment for which you are

EXHIBIT 5 - Conference Conclusion Letter (No Penalty Assessed)

* * * * *

CONCLUSION OF CONFERENCE

Mr. Michael W. Boats, Attorney
Ships & Boats
600 Time Building
Anytown, Tennessee 37405

Re: Assessment Conference for: Rich Energy Inc
Violation No. 1 & 2 of 2 of N86-099-179-021(2)
Permit: 2222

Dear Mr. Boats

This letter formally concludes the conference relating to the above violations.

After reviewing all of the information supplied to me at the conference and all other information available to me concerning the above violations, pursuant to 30 CFR Part 723, as shown on the attached Assessment Conference Report, no penalty is being assessed for the violations.

Sincerely

Assessment Conference Officer

Enclosure

cc William H. Rich, President
Rich Energy Inc
147-C N. Myrtle Street
Anyton, Tennessee 37405
C. Carter
Branch of Assessments

* * * * *

EXHIBIT 4 - Conference Conclusion Letter (Vacated -
No Penalty Assessed)

* * * * *

CONCLUSION OF CONFERENCE

Mr. Frank T. Martin, President
Seven Dwarfs Coal Sales Inc
302 Mills Road
Anytown, Florida 33480

Re: Assessment Conference for: Seven Dwarfs Coal Sales Inc
Violation No. 1 of 1 of C86-099-012-004(1)
Permit: 88-A28

Dear Mr. Martin:

This letter formally concludes the conference relating to the above violation.

After reviewing all of the information available to me concerning the above violation, pursuant to 30 CFR Part 723, I am revising the assessment for the above mentioned violation, as shown on the enclosed Assessment Conference Report. As the violation was vacated, there will be no civil penalty.

If you have any questions which are not answered by this letter, you may call me at (615) 673-1234.

Sincerely,

Assessment Conference Officer

Enclosure

cc: C. Carter
Branch of Assessments

* * * * *

EXHIBIT 3 - Conference Conclusion Letter (No Show)-(Continued)

* * * * *
amount less than the proposed assessment, you may forfeit your right to a hearing. To assure proper credit for your payment, you must note on your check or money order the violations for which the contested assessments are being made.

The proceeds of your check or money order will be held in escrow and if, after administrative or judicial review, it is found that there was no violation or that the proposed penalty was too high, the balance will be refunded to you with interest at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

If you do not make a timely request for a hearing with respect to a violation, the proposed assessment for that violation will become final and will be due and payable within 30 days from the receipt of this letter. Payments should be made by check or money order payable to "Assessment Office--OSMRE" and sent to:

Office of Surface Mining
Reclamation and Enforcement
P.O. Box 360292 M
Pittsburgh, PA 15251

To assure proper credit of your payment, you must note on the check or money order the violations for which payment is being made.

Please read this letter carefully. If you have a question which is not answered by this letter, you may call me at (615) 673-1234.

Sincerely

(name)
Assessment Conference Officer

Enclosure

cc: C. Carter
Branch of Assessments

* * * * *

EXHIBIT 3 -Conference Conclusion Letter (No Show)

* * * * *

CONCLUSION OF CONFERENCE

Mr. Bert L. Jones, President
Jones & Smith Fuels Inc
1028 N. Broadway, Suite 7
Anytown, Arkansas 72301

Re: Assessment Conference for: Jones & Smith Fuels Inc
Violation Nos. 1 & 2 of 2 of C86-099-099-006(2)
Permit: 2280000

Dear Mr. Jones

Since you did not appear at the conference as scheduled, this letter formally concludes the conference relating to the above violations. Pursuant to 30 CFR Part 723, I am affirming the assessment for the above mentioned violations, as shown on the attached Assessment Conference Report.

The Assessment Conference Report shows the dollar amount of the civil penalty associated with each violation for which the conference was held and reflects changes, if any, resulting from the conference. It also shows the point values assigned for the proposed assessment and the point values assigned as a result of the conference.

If you wish a formal hearing to contest the revised or affirmed assessment(s), you must submit a petition for review within 15 days after the date you receive this letter:

U.S. Department of the Interior
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

In your petition, you may include a request for a formal hearing on the fact of the violation if you have not previously been granted or denied such a hearing.

Your petition must be accompanied by a check or money order payable to "Assessment Office--OSMRE" in an amount equal to the total of the revised or addressed assessment for which you are requesting a hearing. If you fail to submit the check or money order with your petition, or if the check is returned for nonpayment, or if the check or money order is written for an

EXHIBIT 2 - Conference Conclusion Report (Page 4 of 4)

CONFERENCE CONCLUSION REPORT
(Continued)

Page ____ of ____

Company Name:

Permit No.

Citation No. _____ (____)

Violation ____ of ____

3. Narrative: (Continued)

NOTES: Page 4 will be used only if needed. If there is more than one violation in the citation the pages should be numbered to reflect the additional violations. The narrative pages will normally not be sent to the operator.

EXHIBIT 2 - Conference Conclusion Report (Page 3 of 4)

ASSESSMENT CONFERENCE REPORT
(Continued)

Page 2A of 2

Company Name: Jones & Smith Fuels Inc

Permit No: 2280000

Citation No: C86-099-099-006(1)

Violation 1 of 1

3. Narrative:

(Brief explanation of reasons for any changes in assignment of points and any additional information that was presented at the conference.)

As the violation was unabated there was no settlement possible. Operator was apprised of his options and Operator stated the unabated violation was being resolved. Operator will either file an appeal or will work with Collection in reference to a settlement for the penalty.

This is the inspector's verbal report of what occurred. Look for the who, what, where, when and how much. Read the report and read even in between the lines to determine the extent of damage or potential damage. Evaluate this report against the Assessment package and the other documents within the Enforcement package.

INSPECTION REPORT

Page 1 of 2

Permittee: Anyols Coal Company
 P. O. Box
 Jellico, TN 37762

County: Campbell

Operator:

Permit No.: 88-A03

Date of Inspection: 12/10/86

Type of Inspection: Partial

Inspector: Jeff 9

Action Taken: Issued NOV 86-091-000-001
 containing one violation for
 failure to meet effluent
 limitations

Discussion:

A partial inspection was completed on this site on 12/10/86. The permittee was represented on site during this inspection.

Mining occurred within permit boundaries. A permit sign is present as required. Diversions are stable and function as designed. All three basin embankments are stable and well vegetated. Haul roads are well maintained. All three basins (001, 002, and 003) were discharging during this inspection. Field tests revealed that basin discharges from 002 and 003 were in compliance. Discharge from basin 001 was field tested and found to exceed effluent limitations for pH. Samples were collected and taken to a lab for analysis. Laboratory analysis indicated that basin 001 was discharging water with a pH of 3.73. This discharge resulted in the issuance of Notice of Violation No. 86-91-000-001 containing one violation for failure to meet effluent limitations. Laboratory analysis from basin 001 is

What are the inspector's comments about the violation