PAYCO AMERICAN
Batch No. 1

RUN ON 03/31/88 AT 11:48:22 CLAIMS ACKNOWLEDGEMENT FOR 163105-001 OFFICE OF SURFACE MINING LIST DATE 03/30/88 PAGE 1

THANK YOU FOR THE FOLLOWING ACCOUNTS. DEMAND FOR PAYMENT HAS BEEN MADE. SHOULD A DEBTOR CONTACT YOU PLEASE NOTIFY US IMMEDIATELY.

DEBTOR NAME	CLIENT DEBTOR ID	ACCOUNT NUMBER	AMOUNT	DEBTOR ADDRESS	
BENTLEY GLEN	4943.00 C87-84-68-2	00000001285751	4025.28	RT 2 HINDMAN	KY 41822
BENTLEY GLEN	4943.00 C87-84-68-4	00000001285752	26842.05	RT 2 HINDMAN	KY 41822
CUMBERLAND RES + DEVEL INC	4990.00 C87-91-282-1	00000001285753	242785.70	PO BOX 70 MARION	AR 72364
F + H COAL CORP	4760.00 C87-132-423-4	00000001285754	53923.88	PO BOX 123 PRATER	VA 24638
F + H COAL CORP	4760.00 N86-132-523-63	00000001285755	1512.07	PO BOX 123 PRATER	VA 24638
FREDDIE BOWLIN COAL SALES INC	4989.00 C87-91-182-9	00000001285756	3670.79	PO BOX 680 JELLICO	TN 37762
MITCHELL DAVIS TRUCKING CO	4799.00 N87-132-423-31	00000001285757	4426.20	PO BOX 81 CLINTWOOD	VA 24228
NEACE PETE/ANNACO INC ET AL	4728.00 C86-84-62-1	00000001285758	27977.64	PO BOX 135 BUSY	KY 41723
NEACE PETE/ANNACO INC ET AL	4728.00 C87-84-68-1	00000001285759	26807.21	PO BOX 135 BUSY	KY 41723
PARSON GLEN	4983.00 C87-92-82-4	00000001285760	28275.97	RT 1 BOX 221 TRACY CITY	TN 37387
PARSON GLEN	4983.00 N87-92-82-60	00000001285761	1710.64	RT 1 BOX 221 TRACY CITY	TN 37387
SPLASHDAM SMOKELESS COAL CORP	4971.00 C87-132-421-4	00000001285762	83101.24	PO BOX 215 RED ASH	VA 24645
SPLASHDAM SMOKELESS COAL CORP	4971.00 N87-132-421-1	00000001285763	2271.18	PO BOX 215 RED ASH	VA 24645
		TOTAL	$507,329.85	13 ACCOUNTS	

RECEIVED 4/7/88 PL.

EXHIBIT 6-7

XDC100 DATE: 06/07/88

CREDIT CLAIMS & COLLECTIONS
ACKNOWLEDGEMENT OF NEW PLACEMENTS

1012 US DEPT OF INTERIOR
OSM-CIVIL PENALTY COLLECTION
1951 CONSTITUTION AVE., NW
WASHINGTON DC 20240

DEBTOR NUMBER	DEBTOR NAME/YOUR REFERENCE	DATE PLACED	PRINCIPLE PLACED	INTEREST PLACED	INT RATE	INT AS OF	PENALTY PLACED	PNLTY RATE	PNLTY AS OF	ADMIN CHARGE	ACCOUNT BALANCE
00220062	GREAT NATIONAL CORP CB5-3-110-5	06/06/88	22500.00	3708.49	08000	51688	2781.37	00000	51688	1075.00	30064.86
00220071	GREAT NATIONAL CORP CB5-3-110-6	06/06/88	22500.00	3708.49	08000	51688	2781.37	00000	51688	375.00	29364.86
00220085	GREAT NATIONAL CORP CB5-3-75-3	06/06/88	22500.00	3708.49	08000	51688	2781.37	00000	51688	375.00	29364.86
00219951	CARSON PRODUCTIONS INC CB5-7-248-1	06/06/88	750.00	194.92	09000	51688	129.95	00000	51688	525.00	1549.87
00220151	H & S COAL CO CB5-92-162-21	06/06/88	22500.00	2949.04	08000	51688	2211.78	00000	51688	1000.00	28660.82
00220169	H & S COAL CO CB5-92-162-28	06/06/88	22500.00	4948.77	09000	51688	3299.18	00000	51688	435.00	31182.99
00220177	H & S COAL CO CB5-92-99-15	06/06/88	22500.00	3994.52	08000	51688	2995.89	00000	51688	405.00	29895.41
00219969	CARSON PRODUCTIONS INC CB6-7-23-4	06/06/88	9250.00	826.19	08000	51688	619.64	00000	51688	1060.00	7755.83
00220038	CARSON PRODUCTIONS INC CB6-7-251-4	06/06/88	22500.00	2006.51	07000	51688	1719.86	00000	51688	225.00	26451.37
00220020	CARSON PRODUCTIONS INC CB6-7-251-5	06/06/88	22500.00	2010.82	07000	51688	1723.56	00000	51688	225.00	26459.38
00220054	D S D CONSTRUCTION CO CB6-84-61-10	06/06/88	22500.00	2623.56	08000	51688	1967.67	00000	51688	255.00	27346.23
00220046	D S D CONSTRUCTION CO CB6-84-61-6	06/06/88	1500.00	194.56	08000	51688	146.22	00000	51688	985.00	2826.18
00220142	GREGORY BRANCH COAL CO CB6-84-62-11	06/06/88	22500.00	2579.18	08000	51688	1934.38	00000	51688	255.00	27268.56
00220134	GREGORY BRANCH COAL CO CB6-84-62-6	06/06/88	1600.00	197.79	08000	51688	148.34	00000	51688	985.00	2931.13
00220185	H & S COAL CO CB6-92-198-14	06/06/88	22500.00	2756.71	08000	51688	2067.53	00000	51688	270.00	27594.24
00220092	GREAT NATIONAL CORP NB4-3-75-16	06/06/88	600.00	81.67	08000	51688	61.25	00000	51688	300.00	1042.92
00220100	GREAT NATIONAL CORP NB5-3-75-6	06/06/88	1200.00	318.08	09000	51688	212.05	00000	51688	525.00	2255.13
00220118	GREAT NATIONAL CORP NB5-3-75-7	06/06/88	1200.00	318.08	09000	51688	212.05	00000	51688	525.00	2255.13
00219972	CARSON PRODUCTIONS INC NB5-7-404-6	06/06/88	2700.00	488.81	08000	51688	366.61	00000	51688	405.00	3960.42
00220193	H & S COAL CO NB5-92-162-28	06/06/88	2200.00	483.88	09000	51688	322.59	00000	51688	435.00	3441.47
00220206	H & S COAL CO NB5-92-162-35	06/06/88	440.00	99.92	09000	51688	66.61	00000	51688	450.00	1056.53
00219942	BRUSHYTOP COAL CO INC NB6-11-289-5	06/06/88	3040.00	391.79	08000	51688	293.84	00000	51688	285.00	4010.63

XDC100 DATE: 06/07/88

CREDIT CLAIMS & COLLECTIONS
ACKNOWLEDGEMENT OF NEW PLACEMENTS

1012 US DEPT OF INTERIOR
OSM-CIVIL PENALTY COLLECTION
1951 CONSTITUTION AVE., NW
WASHINGTON DC 20240

DEBTOR NUMBER	DEBTOR NAME/YOUR REFERENCE	DATE PLACED	PRINCIPLE PLACED	INTEREST PLACED	INT RATE	INT AS OF	PENALTY PLACED	PNLTY RATE	PNLTY AS OF	ADMIN CHARGE	ACCOUNT BALANCE
00220126	GREAT NATIONAL CORP NB6-3-110-3	06/06/88	2000.00	260.38	08000	51688	195.29	00000	51688	300.00	2755.67
00219985	CARSON PRODUCTIONS INC NB6-7-23-3	06/06/88	900.00	160.77	08000	51688	120.58	00000	51688	405.00	1586.35
00219993	CARSON PRODUCTIONS INC NB6-7-249-1	06/06/88	480.00	62.49	08000	51688	46.87	00000	51688	300.00	889.36
00220003	CARSON PRODUCTS INC NB6-7-249-2	06/06/88	440.00	59.31	08000	51688	44.48	00000	51688	300.00	843.79

EXHIBIT 6-8

PAYCO AMERICAN CORPORATION

TIME PHASE WORK SCHEDULE

For accounts forwarded to Payco American Corporation under Federal Contract GS-00F-03005

The following is the time phase work schedule which Payco American Corporation will follow when handling acounts under the terms of Federal Contract GS-00F-03005:

Day 1 - Placement of Accounts

The day on which accounts are forwarded, either in hard copy or via tape to tape transfer, to Payco for resolution.

Day 2-7 - Acknowledgement of Placements

A claims acknowledgement report will be sent to the ordering agency verifying that the accounts have been entered into our computer system and are queued for continued work.

Day 2-8 - Commencement of Collection Work

Collectors begin working the accounts by attempting to telephonically contact the debtors at least once every 30 days. Appropriate collection letters will be used to supplement the telephone collection activity.

At Day 180 - Return of Accounts

Any accounts not paid in-full or on which a repayment schedule cannot be established will be returned to the ordering agency. Proper recommendation for compromise, write-off, or litigation will be made by Payco.

Should a specific account require skiptracing:

By Day 7 - Call Directory Assistance

By Day 14 - Interview Nearby Businesses

Conduct Background Search if warrented

Check State Department of Licensing and Other State Bodies

By Day 45 - Obtain Bank References

Obtain credit reports on possible guarantors

- Complete other activities appropriate and necessary to locating company and/or individuals involved.

Should payment arrangements be set up on a specific account:

A large initial payment will be obtained. - This payment will be at least 30% of the amount owed.

A payment plan will be established. - Equal monthly repayments will be required to liquidate the debt. No payment plan will extend longer than 12 months, UNLESS AUTHORIZED BY OSMRE.

Should an account require billing:

The account will be billed according to the payment plan. Bills will be generated automatically and sent to the debtor.

Payments will be processed. All payments will be directed to a lockbox for processing by Payco personnel.

This time phase work schedule is agreed to on 3/25/88 by:

For the Ordering Agency	For Payco American
(Signature)	(Signature)
SAM T. SPILLANE	
(Printed Name)	(Printed Name)
Chief, Civil Penalty Collections Branch	
(Title)	(Title)
Dept of Interior/OSMRE/DOW	
(Name of Ordering Agency)	

MAILED 7/5/88

TIME-PHASED WORK SCHEDULE

Ordering Agency: U. S. Department of Interior/Office of Surface Mining
Civil Penalty 1012 01

COTR:

Mr. Shawn Spillane

Date placement received: May 11, 1988

Number of accounts in placement: 32

Dollar amount of placement: 674,204.56

Loaded into system by: May 11, 1988

Initial collection letter sent by: within 48 hours of receipt of TPWS (in increments of 5000)

Assignment to collectors by: within 15 days from return of TPWS

Accounts passed through automated skip tracing database with 90,000,000 names, addresses and telephone numbers, via proprietary Computrace, with results automatically entered into our system by: June 15, 1988

Credit bureau reports run on all appropriate accounts by: September 15, 1988

Minimum Account Resolution Standards (MARS) completed by: December 15, 1988

Submitted by: Juan A. Blanco, Collection Manager

Date submitted: 5/24/88

Accepted by:

Title: CHIEF, BRANCH OF CIVIL PENALTY COLLECTIONS

Date accepted and returned to contractor:

Internal Memorandum

To: Norma Frank, Supervisor
Science Management Corporation

Thru: Ron Tarquinio, Chief
Branch of Data Management

Thru: Sean T. Spillane, Chief
Branch of Civil Penalty Collections

From: _____

Subject: Data Entry to CMIS

The following documents are attached and submitted for entry to the Collections Management Information Systems.

		TRANSMITTAL #
[ ] _____	Bankruptcy Petitions or Closures	# _____
[ ] _____	Batch of Payco Collection Contractor Referrals/Cases Returned Resolved	# _____
[ ] _____	Batch of CC&C Collection Contractor Referrals/Cases Returned Resolved	# _____
[ ] _____	Payment Plan #BCPC _____	
[ ] _____	Collections:	# _____
	[ ] _____ - Lock Box Payments for Date of: _____	# _____
	[ ] _____ - 1081 (DOJ) Payments for Date of: _____	# _____
	[ ] _____ - Other Misc. Remittance for Date of: _____	
	[ ] _____ - Refunds, Offsets, Transfers for Date of: _____	
[ ] _____	Referrals to Solicitor for Judgement/Collection	# _____
[ ] _____	Abatement Data	# _____
[ ] _____	Final Order	# _____
[ ] _____	Other (Identify/Explain) _____	# _____

Please return a signed and dated copy of this memo once Data Entry & Verification are completed.

[ ]Data Entry & Verification are Completed. _____ Signature _____ Date

EXHIBIT 6-12

RECEIVED JUL 29 1988

1,041.68

07-26-88

882084 07-26-88 14-18-0001

Clt #: 163105

Surface Mining/DDM
CP88039999 D2R13

Payco/G.A.C.
5626 Frantz Road
Dublin, OH 43017
Deposited for:DOI Surface Mining DDM

BancOhio National Bank
Columbus, OH 43215

125756

FIRST TENNESSEE

713939

FREDDIE BOWLIN COAL SALES
REMITTER

JULY 15, 19 88

87-132/642

PAY TO THE ORDER OF PAYCO $ 1,041.68

FIRST TENNESSEE BANK

1041 AND 68 CTS DOLLARS

CASHIER'S CHECK

NOTICE—An indemnity bond will be required before this Cashier's Check will be replaced or refunded in the event it is lost, mutilated or stolen.

AUTHORIZED SIGNATURE

⑈0713939⑈ ⑆064201324⑆ 974000 7⑈

CLT #163105

MAR 9 1989

3110
FIN 5

Memorandum

To: Chief, Division of Debt Management

From: Chief, Division of Financial Management ROY E. MORRIS

Subject: Revised account numbers

The following FY 1989 account numbers have been revised:

Old Account Number	Account Title	New Account Number
999902R03	PRE PENALTY ASSTS	998903X03
999902R05	ESCROW PENALTY ASSTS	998903X04
999902R10	COLLECTION FEE: CP: PAYCO	998903X07
999902R12	COLLECTION FEE: CP: CCC	998903X09
999902R13	CP SUSPENSE: PAYCO	998903X10
999902R14	CP SUSPENSE: CCC	998903X11
999940R01	CIVIL PENALTY FINES	998909X01
999940R02	CIVIL PENALTY FINES: PAYCO	998909X02
999940R03	CIVIL PENALTY FINES: CCC	998909X03
999941R01	CIVIL PENALTY INTEREST	998909X04
999941R02	CP INTEREST: PAYCO	998909X05
999941R03	CP INTEREST: CCC	998909X06
999955R02	CP - LATE PAYMENT PENALTY	998911X01
999955R05	CP LATE PMT PEN:PAYCO	998911X02
999955R06	CP LATE PMT PEN: CCC	998911X03
999959R01	CP ADMIN SCVS FEES	998912X01
999959R03	CP ADMIN SVC FEE: PAYCO	998912X03
999959R04	CP ADMIN SVC FEE: CCC	998912X04
999965R04	BLASTER FEES	998913X03

This revision is necessary in implementing a new receipts screen for the ABACIS system. When sending documents to our office, please use the new account numbers.

If you should have any questions, please contact Tamera Mowrey, Chief, Programmatic Accounting Section, at FTS 776-0343 or (303) 236-0343.

INVOICE

EXHIBIT 6–14

Invoice 01078

Date 08/04/88

Client No. 163105

RECEIVED AUG 11 1988 OSMRE DOM

PAYCO AMERICAN CORPORATION

999902R10

BILL TO
CHIEF, REPORTS & ANALYSIS SECTION
U.S. DEPARTMENT OF THE INTERIOR/OSMRE
DIVISION OF FINANCIAL MANAGEMENT
P.O. BOX 25065
DENVER, CO 80225

REMIT TO
Payco American Corporation
180 North Executive Drive
Brookfield, Wisconsin 53005
Attn: Accounting Department - 144

*** Please return canary copy of invoice with your remittance ***

PERIOD	DESCRIPTION OF SERVICES RENDERED	PAID TO PAYCO	PAID TO AGENCY	CONT. FEE	AMOUNT
07/01/88 TO 07/31/88	GROSS COLLECTIONS	$1,041.68	$2,900.00		
	CHECKS RETURNED UNCOLLECTED BY THE DEPOSITORY				
		$1,041.68	$2,900.00	15.1%	$595.19

	# OF FORMS COMPLETED	PRICE PER FORM	
SHORT FORM C.C.L.R.		$45.00	$0.00
LONG FORM C.C.L.R.		$63.00	$0.00

$595.19 Authorized for payment.

If you have questions concerning this invoice, please call Dick Davis at (414) 784-9035 ext. 366.

INVOICE AMOUNT DUE WITHIN 30 DAYS OF RECEIPT.

TOTAL DUE UPON RECEIPT $595.19

H451-D088-31493 (Batch No. 1) OK Patricia 653-2559

Use of Copies
WHITE – Original
CANARY – Return with your remittance
PINK – Accounting
GOLDENROD – Originator

ACCOUNTING DEPARTMENT

OFFICE #	SALES #	POSTING	REFERENCE

United States Department of the Interior
OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

JUN 16 1988

In Reply
Refer to:
3120
FIN-8

Jim Dotson
Payco
Marketing Manager
8100 Professional Plaza, Suite 314
Landover, MD 20785

RE: STOP WORK ORDER
4988.00

Dear Mr. Dotson:

This is to confirm our telephone request of May 24, 1988 to stop collection activity immediately on the account of Strouth and Horton Coal, Swords Creek, Virginia.

Please notify the debtor that he may disregard any demand for payment notices regarding the outstanding civil penalty for C87-132-524-1.

Questions concerning this stop work order may be directed to Patricia Leslie at (202) 653-2359.

Sean T. Spillane, Chief

Branch of Civil Penalty Collections

EXHIBIT 6-16

COLLECTION CONTRACTOR
NEXT ACTION

Company Name _____ CMIS INDEX _____

Citation(s):

_____ _____

_____ _____

_____ _____

_____ _____

Returned from Collection Contractor: _____
Date

Reason Returned:

[ ] BKRPT 7 [ ] BKRPT 11 [ ] BKRPT 13 [ ] DEATH

[ ] DISABLED [ ] $CONTESTED [ ] UNABLE TO PAY $

[ ] REFUSED TO PAY $ [ ] OUT OF BUSINESS

[ ] UNLOCATABLE [ ] COMPROMISED $

[ ] 180 days expired [ ] AGENCY STOP WORK ORDER

[ ] OTHER (explain): _____

_____

_____

Recommendation for next action: [ ] RECLASSIFY

[ ] ORDER CREDIT REPORT [ ] SOLICITOR [ ] CONTACT DEBTOR

[ ] ORDER NWD [ ] BKRPT (BANKRUPTCY PROCESSING)

Comments: _____

_____

PAYCO [ ]:BATCH NO. ____ CREDIT CLAIMS AND COLLECTIONS [ ]:BATCH NO. ____

CHAPTER 7
NET WORTH DETERMINATIONS

This chapter explains the procedures for obtaining and reviewing net worth determination reports.

7.1 PURPOSE

Net worth determinations reports (NWDs) are used to:

- Determine whether the debtor is financially capable of correcting unabated violations or paying outstanding civil penalties.
- Identify income and assets out of which a debt can be collected.
- Determine whether to pursue or terminate civil penalty collection cases.

7.2 SCOPE

These procedures apply to all requests for NWDs received and generated by the Branch of Civil Penalty Collections.

7.3 RESPONSIBILITY

Requests for NWDs are generated from different sources such as the Office of the Solicitor and current cases within the Branch of Civil Penalty Collections (BCPC). The Division of Debt Management, BCPC, is responsible for requesting NWDs, monitoring and tracking all orders placed with a contractor, and ensuring that funds are available to contract for NWDs.

The Contracting Officer's Technical Representative (COTR) is responsible for:

- ensuring that duplicate requests for NWD are avoided;
- maintaining a current and accurate record of all NWDs that have been ordered, and
- monitoring budgeted funds.

7.4 DEFINITIONS

- NWD Report - a report which shows the results of researching a debtor's assets and liabilities and general financial condition. Reports on companies include the company business structure, names of CEO's and principals, and dates of formation and operations. Reports on individuals include age, health, income and employment, and personal assets and liabilities.

- Contractor - the company(ies) that the Office of Surface Mining Reclamation and Enforcement (OSRME) has contracted with to research a debtor's net worth and provide a net worth report.

7.5 RECEIVING REQUESTS FOR NWDS

Requests for NWD reports come from the following sources:

- BCPC = Branch of Civil Penalty Collection
- SOL = Solicitor
- AML = AML Collections Branch
- DCM = Division of Compliance Management

Requests for NWDs are submitted in the format shown in Exhibit 7.1. Upon receiving a request for an NWD, the collection specialist will:

- Review CMIS to ensure that civil penalties are due if requests are from within the BCPC.

- Review the NWD tracking systems printouts to ensure that duplicate orders are not placed.

Alternative enforcement cases are submitted to BCPC by the Field Solicitor's Office but they are not reviewed by the collection specialist for civil penalties due.

7.6 ORDERING NWDS FROM A PRIVATE CONTRACTOR

After completing the process in the preceding section, the collection specialist will:

- Prepare a typed, alphabetical listing of all entities and individuals for whom an NWD is being requested (Exhibit 7.2), including the OSMRE index number (if available) and the state of the mining operations or the state where the asset investigation should be performed. Enter requested information into the NWD Tracking System and leave the Date Requested field blank.

- Prepare a requisition form, Form OSM 1151-1. Assure that the appropriation being charged is current in the fiscal year in which the NWD is requisitioned.

- Submit the listing and requisition to the contracting officer's technical representative and Section Chief for review and submission to Procurement.

Procurement will issue a purchase order to the contractor and send a copy to the COTR. Then, update the NWD Tracking System to record the date the NWD reports were ordered.

7.7 MONITORING CONTRACTOR PERFORMANCE

The contractor will have 60 calendar days after receiving a purchase order to deliver a net worth determination to OSRME. The COTR will follow-up by telephone when NWDs are not delivered as scheduled, and mail follow-up notices to the contractor if NWDs are not delivered within 10 working days after the telephone follow-up. However, if the contractor has provided OSMRE with an acceptable justification for late delivery of the NWD, the written follow-up will not be sent.

7.8 INQUIRIES FROM AND TO THE CONTRACTOR

Technical inquiries from the contractor will be received by the COTR, who is the only individual authorized to direct the contractor's technical performance of work.

7.9 RECEIVING COMPLETED NWDS FROM THE CONTRACTOR

The COTR receives all NWDs from the contractor. Upon receipt of an NWD, the COTR prepares the NWD Report Receipt Log, Parts I & II (Exhibit 7.3) , making one copy of the log and forwarding it and the related NWD reports to designated collection specialists.
The collection specialist shall:

- Obtain two complete photocopies of the NWD reports;

- Determine who ordered each of the NWDs using the NWD Tracking System printout;

- Distribute NWDs to the ordering office(s) and a file copy to the Civil Penalty Library if the subject owes civil penalties;

- Review NWD reports for Compliance with contractual requirements and complete the "NWD Receiving Report Checklist" for thoroughness (Exhibit 7-4);

- Prepare rejection letters (Exhibit 7-5) to the contractor for NWD reports that do not pass the thoroughness check;

- Complete Part III-VI of the NWD Report Receipt Log;
- File original NWD reports in the NWD filing cabinet;
- Update the NWD Tracking System to record the receipt date for those reports that were accepted.

7.10 UPDATING CMIS FOR RECEIPT OF NWD REPORTS

For those companies that owe civil penalties, update the Collection Management Information System (CMIS) by preparing and submitting a CMIS Control Sheet (Exhibit 7-6), along with a copy of the NWD Report Receipt Log, after the NWDs have been accepted.

7.11 INVOICE CERTIFICATION AND PROCESSING

Within 15 working days of receipt of an invoice from the contractor, the COTR will:

- Using the NWD Tracking System, certify whether or not NWD reports were received and accepted;
- Determine that payment to the contractor has not already been made;
- Compute the amount to be paid the contractor, subtracting any rejections or missing NWD reports that are billed on the invoice;
- Prepare an approval line for the COTR's signature and indicate the amount to be paid;
- Forward the signed copy to Procurement for signoff and forwarding to DFM, Denver; and
- Update the NWD Tracking System to show payment for each NWD report covered by the invoice.

7.12 ANALYZING NWD REPORTS

Analyze NWD Reports that were ordered by the BCPC, to determine the Net Worth of the subject company and/or individual(s), as follows:

- Review NWD reports and complete a History Summary Sheet (Exhibit 7.7) for each company and individual. The History Summary Sheet is used to summarize key information from the NWD report(s) and the assets, liabilities and net worth of the subject.

- Use the questionnaire (Exhibit 7.8) as a guide in summarizing the assets, liabilities and net worth of a subject. Use the answers to questions 3-11 on the questionnaire to help identify the subjects assets. Use the answers to questions 12-15 to help identify the subject's liabilities. The sum of the subject's assets, less the sum of the subject's liabilities, will provide the estimated net worth of the subject.

- Upon completing the History Summary Sheet, recommend either that collection be pursued or that the subject's debts be reclassified as uncollectible. Base the recommendation on the following criteria:

7.12.1 For Corporate Entities

A. When the violation(s) in question occurred as a result of mining that was done while the company was incorporated:

Recommend Reclassification if the company has zero or negative net worth and there is little to no prospect for future income, regardless of the net worth of the CEO. However, if there is an indication that the CEO or principals involved in the company may have hidden or improperly transferred assets of the corporation, the Solicitor should be consulted.

Recommend Pursuit if the company has a positive net worth or if there is a good prospect for future income. Pursuit should not be recommended where the cost of collection would exceed the amount that could be collected, providing the debt does not exceed $1,000.

B. When some or all of the violations in question occurred as a result of mining that was done while the company was not incorporated:

Recommend Reclassification if no net worth in the company and little to no prospect for future income, and the net worth of all of the principals is less than $50,000 each and there is a low payment prospect for future income.

Recommend Pursuit if the company has a positive net worth or a good prospect for future income; or, if any of the principals involved have a net worth of $50,000 or more, or if any of the principals have a good prospect for future income. Pursuit should not be recommended if the cost of the collection would exceed the amount that could be collected, providing the debt does not exceed $1,000.

7.12.2 For Non-Corporate Entities (including partners and sole proprietors):

Recommend Reclassification if the net worth of each of the principals is less than $50,000 and the prospects for future income are low, such as when the subject is disabled, retired, imprisoned for a long period, or in poor health.

Recommend Pursuit if the net worth of any of the principals is $50,000 or more, or if the prospect for future income is good.

7.13 REVIEW AND APPROVAL OF RECOMMENDATION

The Chief, Processing Section, reviews the History Summary Sheet and related NWD report(s) and either concurs on the collection specialist's recommendation, recommends another action, or returns the package for additional work. If the Section Chief concurs on reclassification, then the case is processed using reclassification procedures as described in Chapter 9. If the Section Chief concurs on pursuing collection, then the case is processed using Solicitor referral procedures as described in Chapter 8.

INDEX NUMBER	STATE	NUMBER OF REPORTS REQUIRED	COMPANY NAME WITH ADDRESS	PRINCIPAL OR INDIVIDUAL WITH ADDRESS	COMMENTS	REQUESTED BY

EXHIBIT 7-1

INDEX	ST	COMPANY/ADDRESS	PRINCIPAL OR INDIVIDUAL/	REPORTS REQUIRED
1409	PA	Bowers Coal Co. 95 Jeffrey St. Indiana, PA 15701	Report Required	2
	MO	Central West Coal Corp. P.O. Box 36 Bronaugh, MO 64728	Report Required	2
1106	WV	Chafin Coal Co. P.O. Box 338 Logan, WV 25601	Report Required	2
1478	PA	Cochran & Keller Coal Co., Inc. Route 3 Apollo, PA 15613	Report Required	2
1359	AL	Crimson Mining Co. Box 940 Haleyville, AL 35565	Report Required	2
0144	VA	Dean Trucking Co., Inc. P.O. Box 98 St. Charles, VA 24282	Report Required	2
1168	TN, AR, TX	Farco Mining Co. 100 N. Main St. Suite 410 Memphis, TN	Charles C. Farrell 810 Fenwick St. Laredo, TX 78041 Steve Cockerham 700 Highland Drive Laredo, TX 78040	3

NWD REPORT RECEIVING LOG

PART I.

1. NWD Contractor: ( ) Hooper Holmes 2. # of NWD Reports Received ____ 3. Date NWD Reports Received _____ 4. Date Log Printed _____

( ) LTDA 5. Initials _____ 6. Receipt Acknowledged _____

PART II				PART III		PART IV		PART V			PART VI			
CMIS INDEX#	NAME OF CO. OR PRINCIPAL	IF PRINCIPAL NAME OF CO.	ST.	DETERMINE WHO REQUESTED NWD		COMPLETED COPY LIN(2)		COPIES DISTRIBUTED			CONTRACT COMPLIANCE			
				ORGAN	INI.	DATE	INI.	DATE	INI.	REC./ ACKN.	ACPT./ REJ.	DATE REJ. NOTICE SENT	DATE	INI.

EXHIBIT 7-3

EXHIBIT 7-4

BRANCH OF CIVIL PENALTY COLLECTIONS

NWD Receiving Report Checklist

Thoroughness

INDEX #: COMPANY/INDIVIDUAL OWNER/CEO

ANALYST NAME: DATE

REVIEW CRITERIA

SOURCES CHECKED:	STATE/COUNTY of Residence	Operation	Other
COMPANY REPORT:			
(1) Secretary of State	( )	( )	( )
(2) Bankruptcy Records	( )	( )	( )
(3) Federal District Court	( )	( )	( )
(4) Circuit Court	( )	( )	( )
(5) County Clerk's Office			
- Real and Personal Register of Deeds ..	( )	( )	( )
- Property Tax Assessor	( )	( )	( )
(6) U.C.C Records	( )	( )	( )
(7) Division of Motor Vehicles	( )	( )	( )
(8) U.S. Post Office	( )	( )	( )

Principal Report (CEO...)

1. Bankruptcy Records	( )	( )	( )
2. Federal District Court	( )	( )	( )
3. Circuit Court	( )	( )	( )
4. County Clerk Offices/Tax Assessor(s)			
- Register of Deeds	( )	( )	( )
- Rent and Property Tax Assessor(s).....	( )	( )	( )
5. U.C.C Records	( )	( )	( )
6. Division of Motor Vehicles	( )	( )	( )
7. U.S. Post Office	( )	( )	( )
8. Credit Bureau	( )	( )	( )

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240

Dear

The Net Worth Determination Report listed below has been reviewed and determined to be incomplete and/or not in compliance with the contract.

Company	Principal

The reason for returning this report is identified on the corresponding enclosure.

Questions pertaining to this report should be directed to me on (202) 653-2940.

Sincerely,

Chief, Branch of Civil
Penalty Collections

Enclosure(s)

Enclosure

ANALYSIS OF MISSING DATA

Company: _____

Principal: _____

{ } Confirmation of address by the appropriate Post Office.

{ } Social Security Number of owner, partners and/or incorporators.

{ } Federal District Court filings.

{ } Bankruptcy Court filings.

{ } Circuit Court filings.

{ } County Clerk filings.

{ } UCC (Uniform Commercial Code) filings.

{ } Ownership of property(ies) and value $ _____.

{ } Ownership of vehicles(s) and value $ _____.

{ } Ownership of equipment and value $ _____.

{ } Credit Report filings.

{ } Employment and Salary $ _____.

{ } Appropriate Secretary of the State:

  { } a. Verification of incorporation.

  { } b. Revocation date of corporation.

{ } Other: _____

_____

_____

Exhibit 7-6

NWD/RECLASSIFICATION
CMIS Control Sheet

To: Norma Frank, Supervisor, SMC

Thru: Ron Tarquinio, Chief, BDM

Thru: Sean T. Spillane, Chief, BCPC

From: Carolyn Carter, BCPC-P.S.

The following documents are attached and submitted for entry to the Collections Management Information System.

Transmittal No.: _____

NETWORTH DETERMINATION

[ ] Date(s) NWD Ordered Source: _____ No. of Documents: ____

[ ] Receipt Info. Source: _____ No. of Documents: ____

RECLASSIFICATION

[ ] BCPC Recl. No. of Documents: ____

[ ] SOl Recl. No. of Documents: ____

[ ] Recl. Adj. No. of Documents: ____

[ ] SOL/DOJ Approvals No. of Documents: ____

[ ] Entity Info./Changes No. of Documents: ____

[ ] Other

Special Instructions: _____

_____

_____

Please return a signed and dated copy of this memorandum, once Data Entry and Verification are completed.

Coding, QA & Data Entry Completed

_____
Signature/Date

Verification Completed

Return To: _____

_____
Signature/Date

Exhibit 7-7

BRANCH OF CIVIL PENALTY COLLECTIONS

HISTORY SUMMARY SHEET

INDEX #: COMPANY/INDIVIDUAL: OWNER/CEO:

Analyst Name: Type of Entity: Date

COMPANY:

Date of Incorporation :

Date of Revocation of Charter:

COMPANY:

Liabilities :

Bankruptcy Filing :

Tax Liens :

Assets [properties, vehicles, Equip, etc] :

Company's Net Worth - Value

[ ] Less than $50,000

[ ] More than $50,000

Comments:

CEO:

Social Security Number :

Employment and Salary :

CEO:

Liabilities :

Bankruptcy Filing :

Assets [properties, vehicles, Equip, etc] :

Tax Liens :

Owner's Net Worth - Value

[ ] Less than $50,000

[ ] More than $50,000

RECOMMENDATION:

[ ] Write-off

[ ] Pursue

[ ] Other

I concur with the determination

I do not concur with the determination:

Reason:

Comments:

QUESTIONS

1. What kind of organization is the company?
   (a) Incorporated; When? Was the charter revoked or suspended? When?
   (b) Partnership; Are all the partners listed?
   (c) Sole-proprietor; Who is the owner of the organization?

2. Is the company still in business?
   (a) When did it begin operating?
   (b) When did it cease operating?

3. Does the company have any equipment? What is the dollar amount? This question can be answered by looking for the following: vehicles registered with the state motor vehicle administration; equipment assessed by the state or county tax office; any UCC filings with the Secretary of State's office; any financing statements from bank; or chattel mortgage filings.

4. If there are UCC filings, chattel mortgage filings or financing statements from the banks; check and make sure there are releases on file and the equipment was not leased. Equipment repossessed has zero value

5. Does the company have any real estate? What is the dollar value? Is this dollar value the assessed value or the estimated true market value?

6. Does the company have any contracts for coal delivery? If so are there any receivables?

7. In a check with the banks or equipment sales was there any collateral listed for the loans? What is the status of the collateral?

8. Does the company have a checking account? What is the balance?

9. Does the company have a savings account? What is the balance?

10. Are there any pension funds, certificates of deposit or like instruments? What is the dollar amount?

11. Has the company filed for bankruptcy? When did the company file? Under what Chapter (7 or 11) did the company file? Is there a schedule for assets and debts attached? What is the dollar amount of both? Are there assets not shown on the schedule of assets? Are all debts secured? Is the case pending, closed, discharged, or dismissed? Who is the trustee?

12. Is there any mortgage not released on equipment or the other property? What is the amount of the mortgage?

13. Are there any liens filed against the company which have not been released? What type of lien; Federal Tax, State Tax, Mechanics, or Commercial loan lien.

14. What is the dollar amount of the lien?

15. Are there judgements against the company which have not been satisfied? What is the dollar amount?

CHAPTER 8

REFERRALS TO THE OFFICE OF THE SOLICITOR

This chapter establishes the procedures and guidelines to be used when referring delinquent civil penalties to the Office of the Solicitor for collection.

8.1 PURPOSE

Delinquent civil penalties are referred to the Solicitor's office to obtain collection and to enhance OSMRE's claim for collection. Delinquent civil penalties are referred to the Solicitor's office for collection when:

1) All other available collection efforts have failed but it has been determined that the subject debtor has sufficient net worth to satisfy all or part of the debt outstanding;

2) Other civil penalty debts have already been referred for a subject debtor and are in a prejudgment status, or the Solicitor is actively engaged in collecting the debt;

3) The Statute of Limitations is approaching and a case can be filed to toll the statute;

4) The Solicitor's office is preparing to pursue reclamation and advises that it would be advantageous to also file suit for collection of civil penalties.

Civil penalty cases are also considered referred to the Office of the Solicitor when documentation has been provided to the Office of the Solicitor to support filing a Proof of Claim or Claim for Administrative Cost in a bankruptcy proceeding.

8.2 SCOPE

These procedures apply to all delinquent civil penalties for possible referral to the Office of the Solicitor for collection.

8.3 RESPONSIBILITY

The Branch of Civil Penalty Collection has responsibility for determining which cases to refer to the Office of the Solicitor for collection, and for providing information to enable the Solicitor's office to obtain collection. All referrals must be approved and authorized by the Chief, Branch of Civil Penalty Collections.

The Solicitor's Office has responsibility for collecting a civil penalty once it has been referred.

8.4 STATUTE OF LIMITATIONS FOR COLLECTING CIVIL PENALTIES

Section 518(a) of the Act provides for the assessment of civil penalties against any permittee who violates the conditions of the permit or any provisions of the Act. The penalty and enforcement provisions of the Act are cited in detail in Sections 518 and 521, respectively, of the Act.

If all attempts to collect the civil penalty fail and all steps provided to the permittee to allow for due process of the law have been exhausted, the Federal Government has 5 years to initiate legal action to enforce civil penalties assessed under the Act.

The statute of limitations (5 years) governing the collection of such penalties, commences when the penalty assessment becomes final. The penalty assessment becomes final after all administrative and/or legal challenges to such assessment have been completed successfully in favor of the Federal Government and OSMRE issues the Final Order for payment to the debtor. Civil penalty cases which have been decided by an Administrative Law Judge as the result of a hearing with the Office of Hearing and Appeals must rely on the Judge's written decision, not a Final Order, as the legal assessment document. The same is true for an IBLA decision.

8.5 JURISDICTION OVER CIVIL ACTIONS

The United States District Courts have exclusive jurisdiction over civil actions to enforce and recover civil penalties which are incurred under an Act of Congress (28 USC, Section 1355). A civil proceeding to collect such penalties may be filed in the district where that action occurred or in which the defendant is found (28 USC, Section 1395).

8.6 ORIGIN OF CASES FOR REFERRAL TO THE OFFICE OF THE SOLICITOR

The caseload for the collection specialist is generated from several different sources and falls into the following categories:

- New Cases: Any new citation for a company that has been referred previously to the Solicitor's office and is in prejudgment status, is referred to the Solicitor's office for consolidation. Any exceptions to this procedure are made only after concurrence from the Solicitor's office.

- Net Worth Determinations (NWD): The results of a net worth investigation show that the debtor has sufficient assets but all collection attempts have failed.

- Referrals From the Collection Contractor: Cases returned to OSMRE because the contractor could not affect collection but for which the contractor has determined that assets exist from which OSMRE could collect amounts owed.

- Special Requests: Office of the Solicitor requests for referral of a specific company.

- Statute of Limitations: Civil penalties that appear on the statute list, i.e., where the Final Order was issued 4 1/2 years ago.

8.7 OFFICE OF THE SOLICITOR REQUIREMENTS

In accordance with the 10 September 1985 memorandum from The Office of the Solicitor, there are three principal types of information needed to effectively process a collection case. The three types of information, which are as follows, are further described in the following paragraphs.

1) Notice to the violator through service of the citations and notice of proposed assessment and/or conference results.

2) Documents comprising the referral.

3) Information on the violator, the violator's legal status, and current address.

8.7.1 NOTICE TO THE VIOLATOR—SERVICE OF DOCUMENTS

The Office of Surface Mining Reclamation and Enforcement presently uses four documents in preparing a claim for civil penalties. The documents, which are issued by the Knoxville Field Office and Western Field Operations, include: The Notice of Violation (NOV) or the Cessation Order (CO), the Notice of Proposed Assessment (NOPA), the Final Order (FO), and the Final Demand (FD). Service of the NOV or CO as well as the NOPA must occur before referral. Mailing of the Final Order, Debt Collection Act (DCA) and the Final Demand letters should precede a referral for collection, unless otherwise directed.

Service of the citation must be obtained, as it is the only means by which the person or entity charged with the violation receives actual notice. The details governing service are spelled out in 30 CFR Section 843.14(a) of the permanent program regulations.

A copy of the NOV or CO may be given to the person to whom it is directed, or his or her agent, at the mine site. If this person is not at the mine site and an official agent is not present, the citation may, after reasonable inquiry, be given to a person who appears to be in charge. Service of the citation is not defeated by the refusal of the person to whom it is tendered to accept it, but such refusal must be noted.

If service of the citation cannot be obtained in the above manner, Section 843-14(a) provides an alternative of certified mail. If the certified mail receipt is returned signed, service of the citation has been obtained. If the copy of the citation sent via certified mail is refused, service of the

citation has also been obtained [30 CFR Section 843.14(a) (2)]. If the letter is returned unclaimed or if the letter and return receipt are not returned, then there is no evidence that service has been obtained. In this instance, service of the citation should be referred to the private service contractor.

As a general proposition, the NOPA must also be served. Section 845.17(b) of the regulations provides that a NOPA must be served, along with a copy of the worksheet, by certified mail. That section specifies that the NOPA may be sent by mail to the person identified in the mine site sign. As an alternative, it may be sent by mail to that person at any address at which they are located [30 CFR Section 845.17(b) (1)]. If that person fails or refuses to accept delivery, service is deemed complete. If there is no evidence in the Assessment Office file that service of the NOPA has been obtained, but there is evidence that an assessment conference was requested [30 CFR Section 845.18], then that is sufficient to refer that matter for collection. There is a presumption, in that instance, that the person did receive the NOPA, otherwise the assessment conference could not have been requested. If no indications of service exist, BCPC should refer the NOPA to the appropriate Field Office for service.

Service of a modified NOPA would also have to be obtained in the manner indicated above.

The regulations do not address service of the FO letter. However, 30 CFR Section 845.20(a) states that if the person fails to request a hearing to review the penalty, "the proposed assessment shall become a final order....." Section 518(b) of the Act, 30 USC Section 1268(b), provides that where the person fails to request a hearing, a civil penalty should be assessed after the Secretary has determined that a violation occurred "and has issued an order requiring that the penalty be paid." The Office of the Solicitor has determined that the Act does not require the issuance of a second FO where the first one has been returned unclaimed. Thus, proof of acceptance of the FO is unnecessary for a civil penalty claim.

If there is no evidence of service of the NOPA but there is evidence of service of the FO letter by mail, and the NOPA was sent to the same address as the FO letter but was not returned, that would provide the basis for asserting that the NOPA was served. The presumption is that mail is received. In this instance, there would be no record of the NOPA being returned unclaimed, only that it was sent.

Service of the FD letter is not addressed in either the Act or the regulations. However, under the joint General Accounting Office - Department of Justice Federal Claims Collections Standards, 4 CFR Section 102.2, appropriate written demands for payment, including the consequences of nonpayment, are to be made promptly upon a debtor. Such demand letters are to be either mailed or hand-delivered [4 CFR Section 102.2(b)]. However, the regulations do not bar a collection action for failure to obtain actual service of the demand letter.

8.7.2 EXCEPTIONS—NONSERVICE OF CRITICAL DOCUMENTS

If there is no indication that the NOPA or CO was served or that the NOPA service was completed, but there is evidence that an assessment conference was requested, then it must be presumed that the violator was aware of the violation. In this instance, the collection specialist should consider the citation eligible for referral to the Solicitor.

If there is no evidence of service of the NOV and/or CO or the NOPA, and there is no evidence of a request for a conference or hearing, the citation file must be referred to the Knoxville Field Office or Western Field Operations for service of the appropriate documents and retraction of the Final Order.

If the assessment has been modified, evidence of service of the modified assessment must be apparent in the file. If service has not been obtained on the modified assessment, the citation file must be referred to the appropriate field office for service.

8.7.3 DOCUMENTS COMPRISING THE REFERRAL

The collection specialist must locate all citation files on the specific violator/company. Each citation file must be thoroughly reviewed to:

- o Identify outstanding citations (those for which FOs have been issued but for which the debt has not yet been paid or that have not been vacated).

- o Verify that the following documents are available in the file:

  - NOV or CO and related service documents
  - NOPA and related service documents
  - Conference results, review/public hearing results, if any, and related documents
  - FO letter and any service documents
  - DCA letter (interim notice to the violator of the debt owed and the provisions of the Debt Collection Act) and service documents, if any
  - FD letter

8.7.4 VIOLATOR INFORMATION

Obtain the following information on the violator from the NWD report, the Secretary of State's office, tax office, or OSMRE field offices:

- o Company's current status (corporation or other form)

- o Date of incorporation

- o Date of revocation of articles of incorporation

- Names of corporate officers and company's current address

- Resident agent and address

For a corporation, the referral summary should contain the same information with respect to the citation and indicate the status of the corporation (when and where it was organized, its current standing with respect to the Secretary of State). The summary should list each corporate officer, position, and address. If an agent of the corporation is to be served, then the name and address of the agent must be provided and an indication of whether that address has been confirmed and any confirmation date. If officers of the corporation are to be served, their addresses and an indication of confirmation should be provided. Any available financial information concerning the corporation would also be included in the referral with a reference to it in the summary.

For a sole proprietorship, the summary should indicate the type of business organization, the name of the proprietor and address, and an indication of the date on which that address was current or last verified, and any information on the financial status of the individual. The summary should indicate the citations(s) referred and the penalty amount, identify any previous referrals by citation for that violator, and the status of citations that have not been referred.

A referral for a partnership should identify the partners and their addresses so that each may be named as a defendant and served. Any financial information on the partners should also be provided.

8.8 THE REFERRAL PACKAGE

The referral should include, but not be limited to, the following cover documents, notices/service, hearings/service, final orders/service, final demand/service, telephone logs, and checklists:

- Cover documents, which include referral memorandum, complaint information sheet, and referral checklist:

  - The referral checklist is a chronological listing of each citation from service of the citation up to and through the final demand.(See Exhibit 8-1.)

  - The complaint summary is a brief overview of critical documents reviewed for referral. (See Exhibit 8-2.)

- All documents relating to the NOV or CO (inspection reports, inspector's statement, modifications, terminations).

- NOPA and cover letter and accompanying service documents.

- Net Worth Determination (NWD), when appropriate.

- Conference/hearings documents, if any (request/approval letters, reports and service documents thereof).

- FO letter and related service documents.

- DCA and FD letters, and any related service documents.

- Telephone logs.

- Internal Division of Debt Management documents.

- Affidavits.

8.9 ROLE OF THE AFFIDAVIT IN THE COLLECTION PROCESS

When preparing a referral to the Solicitor, the BCPC prepares an affidavit, which is a sequentially-numbered history of events pertaining to each citation and is presented in chronological order. The origin of the document is described in paragraph one and the maintenance of OSMRE records is discussed in the first two paragraphs. The affidavit alleges the elements necessary to support the Solicitor in summary judgments and in litigation generally. The necessary elements are as follows:

1) Service: The defendant must have been served with the citation and the NOPA.
2) Exhaustion of Remedies: The defendant must have been afforded all of his/her rights to contest the violation or penalty amount. He/she has either failed to exercise his/her rights or he has pursued them to their conclusion (no more avenues have been left for appeal).

3) Legal Debt Established: The Office of Surface Mining Reclamation and Enforcement must have issued the necessary paper work to "establish" the debt.

8.10 SUBMISSION OF THE REFERRAL PACKAGE

Complete the following tasks in preparation for submitting the referral package:

- confirm service of the necessary documents;

- prepare the affidavit;

- assemble copies of the documents cited in the affidavit;

- attach the completed referral check list(s) and complaint summary;

- obtain information about the violator;

- prepare a referral memorandum, listing the citations contained in the referral, the status of any other citations that have been issued but not included in the referral, and the information obtained on the violator;

- Submit the referral memorandum and referral package to the Chief, Processing Section.

The Section Chief reviews the referral package, surnames it and forwards it to the Chief, Branch of Civil Penalty Collections, for signature and notarization of the affidavit.

After the referral memorandum is signed and the affidavit is signed and notarized, transmit the referral package to the Office of the Solicitor (appropriate field office), and place copies of referral documents in all citation files.

8.11 TRACKING OF CASES THROUGH THE COLLECTION MANAGEMENT INFORMATION SYSTEM

Submit a CMIS transmittal and affix a copy of the signed and dated Solicitor's referral memorandum for data entry to CMIS, within one day from the date of the referral memorandum. The date of the referral memorandum becomes the "Date Referred to the Solicitor" in CMIS.

The Solicitor's office submits separate updates to CMIS to record when a case is filed, the amount and date of any civil penalty judgement, and the date the case is closed.

EXHIBIT 8-1

SOLICITOR'S OFFICE CIVIL PENALTY REFERRAL CHECKLIST _____

	Date
Citation (NOV or CO)_____	
Served by inspector	_____
Certified mail, return receipt received	_____
" " refused	_____
" " returned unclaimed	_____
Served by OSMRE contractor	_____
Notice of Proposed Assessment sent	
Certified mail, return receipt received	_____
" " refused	_____
" " returned unclaimed	_____
Served by OSMRE contractor	_____
Assessment Conference	
Requested	_____
Held	_____
Conclusions issued	_____
Review Hearing	
Application for review for review filed	_____
Hearing held	_____
ALJ decision	_____
Dismissed by parties' consent	_____
Penalty Hearing	
Petition filed	_____
Hearing held	_____
ALJ decision	_____
Dismissed by parties' consent	_____
Appeal to Land Appeals Board	
Notice of Appeal filed	_____
Board decision	_____
Dismissed by parties' consent	_____
Final Order sent	
Certified mail, return receipt received	_____
" " refused	_____
" " returned unclaimed	_____
Served by OSMRE contractor	_____
Final Demand sent	
Certified mail, return receipt received	_____
" " refused	_____
" " returned unclaimed	_____
Served by OSMRE contractor	_____
Debt Collection Act Letter sent	_____
	Yes or No
Verified that penalty not paid	_____
Verified that citation not vacated	_____

COMPLAINT INFORMATION

Judicial District: Eastern District of Kentucky

Defendant(s): Coal Company, Inc.

County and State of (X) operation or ( ) principal place of business (check one): Whitley County, Kentucky

NOV or CO number: CO 80-2-40-10

Issued pursuant to 30 U.S.C. § 1271(a)(3)

NOPA sent: April 8, 1983

FO sent: May 19, 1983

FO amount: $ 22,500.00

NOV or CO number: _____

Issued pursuant to 30 U.S.C. § 1271(a)(__)

NOPA sent: _____

FO sent: _____

FO amount: $_____

NOV or CO number: _____

Issued pursuant to 30 U.S.C. § 1271(a)(__)

NOPA sent: _____

FO sent: _____

FO amount: $_____

CHAPTER 9

RECLASSIFICATION PROCEDURES

This Chapter describes the procedures and criteria to be used in reclassifying a debt as uncollectible.

9.1 PURPOSE

The purpose of reclassification is to remove those debts that are uncollectible from the agency's accounts receivable so that collection efforts focus on collectible debts. This allows more productive use of collection resources and provides more accurate reporting for asset management purposes.

Uncollectible debts are those with little or no chance of being collected. Collection activity on uncollectible debts is terminated; however, these uncollectible debts remain on the Applicant Violator System (AVS) for permit blocking/revocation purposes.

9.2 SCOPE

These procedures shall be used to:

- Establish uniform procedures and guidelines for identifying and processing reclassification cases.
- Provide guidelines for the review, approval, and control of all reclassification cases.

9.3 RESPONSIBILITY AND APPROVAL AUTHORITY

The Chief, Branch of Civil Penalty Collections, is responsible for approving all recommendations for reclassification submitted by the collection specialist. The collection specialist is responsible for identifying potential reclassification cases, recommending reclassification and preparing necessary CMIS updates once a recommendation to reclassify a debt has been approved. The Branch Chief concurs with the recommendations by initialing the memorandum after reviewing the justification for termination of collection. All recommendations which have been approved will be returned to the collection specialist for further action.

9.4 CRITERIA FOR RECLASSIFICATION

A civil penalty debt may be reclassified as uncollectible if any one of the following five criteria applies:

1. Inability to Collect a Substantial Amount

The debtor does not have sufficient assets to satisfy the debt, as may be revealed in an NWD report, a Judgement Debtor's Exam conducted by the Solicitor, a bankruptcy proceeding or other reliable means of determining that the debtor is unable to pay the debt. The private collection agencies inability to collect the debt may also show that a debt is uncollectible, if supported by sufficient documentation.

2. Inability to Locate Debtor

All efforts have failed to locate the debtor. Sources to be checked include private collection contractors, credit reporting bureaus, county/city tax records, neighbors and occupants where the debtor has resided, telephone directories, motor vehicle bureaus, places of employment and relatives.

3. Cost Exceeds Recovery

The cost of further collection actions would exceed the amount that could be collected.

4. Debt is Legally without Merit

In these cases the debt was never officially established. For example, the citation and/or Notice of Proposed Assessment was never served, or the wrong company/individual was cited and assessed for the violation(s), or the violation was vacated.

A debt is also without legal merit when it cannot be substantiated. These are cases where the agency does not have or cannot produce the evidence or witnesses necessary to validate a claim and has been unable to obtain the voluntary payment of the debt.

5. Debtor is Deceased

Civil penalty debts do not survive the death of the individual debtor.

9.5 IDENTIFICATION OF CASES

Cases to be considered for reclassification are identified from various sources, including the following:

- Bankruptcy Listing: Current procedures use the CMIS bankruptcy listing. The CMIS report identifies Chapters 7, 11, and 13 cases. The codes are shown as "S" for Chapter 7, "E" for Chapter 11, and "T" for Chapter 13.

- Memorandum from the Office of the Solicitor: Solicitors will advise the Division of Debt Management of companies for which collection should be terminated.

- Cases Returned from Private Collection Agencies: Collection agencies may have obtained information that reveals a debt to be uncollectible. Examples include death certificates of deceased debtors and bankruptcy proceeding results.

- Net Worth Determinations: NWD reports, showing that the debtor has insufficient net worth.

9.6 RECLASSIFICATION AND WRITE-OFF OF DEBT

Once a company's debt has been identified as uncollectible, prepare an Uncollectibility Determination Checklist based on available data (see Exhibit 9-1). In addition to the worksheets, prepare a Citation History sheet listing all citations for the company and the manner in which service was accomplished (see Exhibit 9-2). Only those citations with a Final Order letter may be reclassified. Any citation without the Final Order letter must be returned for Final Order.

The Branch of Civil Penalty Collections may reclassify any debt meeting the prescribed criteria. However, final write-off of debts over $600 must receive Solicitor concurrence. Prepare a memorandum (see Exhibit 9-3) to request Solicitor concurrence with OSRME's recommendation to reclassify the outstanding civil penalties. The Chief, Branch of Civil Penalty Collections, reviews all recommendations for reclassification and indicates his/her concurrence by signing the memorandum to the Solicitor.

In cases where the outstanding civil penalties (principal) amount is greater than $20,000 (or any case filed in court, regardless of amount, that cannot be collected or compromised through departmental procedures), the approval for write-off action must also be obtained from the Department of Justice. The Solicitor's office will request the necessary Department of Justice concurrence for OSMRE.

Upon receipt of the Solicitor's response, review the document for action. In cases where the Solicitor does not concur in termination, the cases will either remain pending or be removed from the reclassification status, and active collection will resume.

9.7 BANKRUPTCY CASES

A debtor filing bankruptcy is governed by the rules of the bankruptcy court, and collection efforts should be held in abeyance during the pendency of the case in bankruptcy court.

Advise the Field Solicitor's office of any pre-petition or post-petition liabilities to be included on a proof of claim or an administrative claim. Obtain the status of each bankruptcy case from the Field Solicitor's office having jurisdiction in the area of the bankruptcy filing.

Review each case and determine the filing date of the bankruptcy petition and the chapter under which it was filed. Chapter 7 is filed by individuals or corporations and indicates liquidation and distribution of nonexempt assets. Civil penalties receive 10th priority out of 12 levels and, therefore, are rarely recovered. After liquidation, an individual debtor may be discharged from most of the remaining debts; however, civil penalties are not dischargeable. A corporation will liquidate its assets and any remaining debts will be uncollectible from the corporation.

A Chapter 11 reorganization is filed by corporations and the assets and liabilities are reorganized according to the plan approved by the bankruptcy court. The debtor remains in operation during the pendency of the Chapter 11 proceedings. Discharge of civil penalty claims is possible under Chapter 11. Confirmation of a Chapter 11 plan can result in a discharge even if the civil penalties were not listed.

Pre-petition liabilities are determined by the petition filing date. If the mining that gave rise to the violation occurred prior to filing for bankruptcy the penalty is considered to be pre-petition and should be included on any claim filed by the Solicitor's Office. Usually, claims are filed within 120 days of the petition.

Inform the Field Solicitors' office of any pre-petition debts so that they may be included on any proof of claim filed by the Field Solicitor's Office. While the bankruptcy stay is in effect, OSMRE is prohibited from taking action to collect or recover a claim against the debtor, including issuing a Final Demand or referring the case to a collection agency.

Inform the Solicitor's Field Office of any post-petition debts so that they can file an administrative claim. Post-petition liabilities are also determined by the filing date of the bankruptcy petition. If the mining that gave rise to the violation occurred after the filing of the bankruptcy petition, the debt is considered to be post-petition and is an administrative expense to be paid first.

After OSMRE is informed by the Solicitor's Office that the bankruptcy cases have been concluded, normal collection action can be resumed or terminated according to the Solicitor's recommendation. When two or more individuals or entities are liable for a civil penalty, the Field Solicitor's office will determine the collectibility of the debt after all liable debtors have been investigated.

9.8 TRACKING THE STATUS OF CASES & UPDATING THE COLLECTION MANAGEMENT INFORMATION SYSTEM

The Collection Management Information System (CMIS) is used to track the status of cases that have been reclassified. CMIS is updated to record that a case has been reclassified as uncollectible, and to record the Solicitor's or Department of Justice's concurrence that the case is uncollectible. A CMIS control sheet (see Exhibit 9.4) is prepared and used to initiate data entry of the reclassification. The CMIS control sheet is also used to initiate data entry of the Solicitor's or Department of Justice's concurrence (write-off).

In cases where the reclassification is based upon a Solicitor's recommendation to terminate collection action, and the Chief, Branch of Civil Penalty Collections concurs, the Solicitor's recommendation is submitted with a CMIS transmittal to initiate data entry of the reclassification. If Department of Justice concurrence is not necessary, the Solicitor's recommendation also provides the necessary Solicitor concurrence and CMIS is updated accordingly.

UNCOLLECTIBILITY DETERMINATION CHECKLIST

Office of Surface Mining
Division of Debt Management
Date: _____
$ AMOUNT UNCOLLECTED _____

STANDARD USED
1) Inability to Collect ☐
2) Inability to Locate ☐
3) Cost exceeds Recovery ☐
4) Statute of Limitation ☐
5) Without Merit or Insufficient Evidence ☐

DEBTOR INFORMATION
Company Name: _____
CMIS Co. Index : _____ Permit : _____
Legal Composition:
☐ SINGLE PROPRIETOR
☐ PARTNERSHIP
☐ CORPORATION

VIOLATION
DATE: _____
CITATION: _____
NATURE: _____
DURATION: _____
ENVIRONMENTAL HARM: _____

REVIEW CHECKLIST (To be filled out only for standard employed)

UNCOLLECTIBILITY STANDARD	REVIEW CRITERIA	CHECKED?/ DATE Yes	No	N.A.	EXCEPTIONS/ COMMENTS
1) Inability to Collect Any Substantial Amount	a. All administrative collections efforts unsuccessful				
	b. No partial Payments made				
APPLICABLE?	c. Unsuccessful contact to arrange payment plan				
YES ☐	d. Collection contractor unsuccessful				
NO ☐	FOR INDIVIDUALS/ PARTNERSHIPS– CONSIDERATIONS MADE FOR:				
	a. Hardship conditions that would result from further collections				
	b. Present/ Potential Income prospects				
	c. Inheritance/ Insurance prospects				

REVIEW CHECKLIST

UNCOLLECTIBILITY STANDARD	REVIEW CRITERIA	CHECKED?/ Date Yes	No	N.A.	EXCEPTIONS/ COMMENTS
1) Inability to Collect Any Substantial Amount (cont.)	d. Substantial prospective changes in debtor finacial condition (i.e. bankruptcy benefits, pending litigation, etc.)				
	e. Possibility of fraudulently concealed assets				
	f. Existence of major assets (vehicles, machinery, other real property)				
	g. Possibility for liens against assets				
	h. Debtor age and health				
	FOR CORPORATIONS- CONSIDERATIONS MADE FOR:				
	a. Present and Future Potential Income				
	b. Prospect of pursuing collections with corporate officials ("corporate veil")				
	c. Possibility of fraudulently concealed assets				
	d. Possibility corporate income or assets may be attached through other enforcement measures				
	e. Prospect of pursuing collections w/ other liable owners				

REVIEW CHECKLIST

UNCOLLECTIBILITY STANDARD	REVIEW CRITERIA	CHECKED?/ Date Yes	No	N.A.	EXCEPTIONS/ COMMENTS
2. INABILITY TO LOCATE APPLICABLE? YES ☐ NO ☐	a. File contains returned certified mail envelope				
	b. Proof of unsuccessful attempt at personal service				
	c. Routine information sources checked (phone directories, etc)				
	d. Postal Service confirms move w/ no forwarding address				
	e. Property records checked (motor vehicle, etc.)				
	f. Check with IRS				
	g. Collection contractor research				
3. COST EXCEEDS RECOVERY APPLICABLE? YES ☐ NO ☐	a. Nature of violation and operator history considered				
	b. Probable costs include estimated OSM and contractor costs				
	ESTIMATED COSTS ($)= ☐ ESTIMATED RECOVERY ($)= ☐				
4) STATUTE OF LIMITATION APPLICABLE? YES ☐ NO ☐	a. Date of Final Order _____ b. Date of End of Statutory Period _____ c. Current Date _____				

REVIEW CHECKLIST

UNCOLLECTIBILITY STANDARD	
5) INSUFFICIENT EVIDENCE/ CASE WITHOUT MERIT APPLICABLE? YES ☐ NO ☐	DESCRIBE GROUNDS:

CONCURRENCE WITH DETERMINATION:

FINANCE AND ACCOUNTING DIRECTOR/ DESIGNEE

Signed:_____ Date:_____

o WRITE OFF OVER $600/ ANY INSUFFICIENT EVIDENCE OR CASE WITHOUT MERIT DETERMINATION

OFFICE OF THE SOLICITORS REPRESENTATIVE

Signed:_____ Date:_____

FIELD OFFICE DIRECTOR/ DESIGNEE

Signed:_____ Date:_____

AML PROGRAM DIRECTOR/ DESIGNEE

Signed:_____ Date:_____

o WRITE OFF OVER $20,000/ ANY CASE FILED IN FEDERAL COURT

DEPARTMENT OF JUSTICE

Signed:_____ Date:_____

TRANSMITTAL LIST FOR UNCOLLECTIBILITY DETERMINATION CHECKLIST

- ALL WRITE OFFS
  - OSM FINANCE AND ACCOUNTING DIRECTOR/ DESIGNEE
- WRITE OFFS OVER $600/ ANY INSUFFICIENT EVIDENCE OR CASE WITHOUT MERIT DETERMINATION
  - OFFICE OF THE SOLICITORS REPRESENTATIVE
  - OSM FIELD OFFICE DIRECTOR/ DESIGNEE
  - AML PROGRAM DIRECTOR/ DESIGNEE
- WRITE OFFS OVER $20,000/ ANY CASE FILED IN FEDERAL COURT
  - DEPARTMENT OF JUSTICE

INDEX NO.:

COMPANY NAME:

CITATION HISTORY

Citation Number	EFF. CIT. SERVICE Y	N	EFF. NOPA/ MA SERVICE SERVICE Y	N	ADMIN. ACTI/APLS CONCLUDED Y	N	FINAL ORDER ISSUED Y	N	FINAL DEMAND ISSUED Y	N	WRITE-OFF FACTOR	$ AMT. UNDER -20,000	$ AMT. EQUAL TO & +20,000	NET WORTH APPL	N/A	REF. TO SOLICITOR	COMMENTS

EXHIBIT 9-2

Company Name	Company ID No.	Citation Number	Date	Amount due Currently	Uncollectible Criteria	Final Order Date

EXHIBIT 9-3

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240

In Reply: 3120
Refer To: FIN 8-1

Memorandum

To: Bruce T. Hill, Chief Attorney
Enforcement and Collections Unit
Knoxville, TN

From: Chief, Branch of Civil Penalty Collections
Division of Debt Management

Subject: Termination of Claims against

Based on a Net Worth Determination obtained from LIDA, I am recommending termination of all claims against
Attached are copies of the Net Worth Determination, the Uncollectibility Determination Checklist, Citation History Sheet for the company, and a Summary for Review of Recommendations for Termination of Collection Activity.

Please return your concurrence and/or comments within 30 days.

Feel free to call me at FTS 653-2940 if you have any questions regarding this matter.

Attachments

NWD/RECLASSIFICATION
CMIS Control Sheet

To: Norma Frank, Supervisor, SMC

Thru: Ron Tarquinio, Chief, BDM

Thru: Sean T. Spillane, Chief, BCPC

From: _____

The following documents are attached and submitted for entry to the Collections Management Information System.

Transmittal No.: _____

NETWORTH DETERMINATION

[ ] Date(s) NWD Ordered Source: _____ No. of Documents: _____
[ ] Receipt Info. Source: _____ No. of Documents: _____

RECLASSIFICATION

[ ] BCPC Recl. No. of Documents: ____
[ ] SOI Recl. No. of Documents: ____

[ ] Recl. Adj. No. of Documents: ____
[ ] SOL/DOJ Approvals No. of Documents: ____

[ ] Entity Info./Changes No. of Documents: ____
[ ] Other

Special Instructions: _____

_____

_____

Please return a signed and dated copy of this memorandum, once Data Entry and Verification are completed.

Coding, QA & Data Entry Completed

_____
Signature/Date

Verification Completed

Return To: _____ _____