

0023

File



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

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August 20, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 951

Mr. Trevor Whiteside
Valley Camp of Utah Inc.
Scotfield Route
Helper, Utah 89526

Dear Mr. Whiteside:

RE: Proposed Assessment for State Violation No. N85-2-10-2,
N85-2-11-1, ACT/007/001, Folder #8, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector Sandy Pruitt, N85-2-10-2 on June 27, 1985 and N85-2-11-1 on July 12, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information, which was submitted by you or your agent within 15 days of receipt of this notice of violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown, at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

Mike Earl

Mike Earl
Assessment Officer

re
Enclosure
cc: D. Griffin, OSM Albuquerque Field Office
73140

3. Would or did the damage or impact remain within the exploration or permit area?

	RANGE	MID-POINT
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS _____

PROVIDE AN EXPLANATION OF POINTS _____

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual

	RANGE	MID-POINT
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS 13

PROVIDE AN EXPLANATION OF POINTS Failure to notify Division within 5 days of receipt of analytical results of discharge samples which may indicate noncompliance with applicable effluent limitations.

TOTAL SERIOUSNESS POINTS (A or B) 13

III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

	RANGE	MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Greater degree of fault

ASSIGN NEGLIGENCE POINTS 18

PROVIDE AN EXPLANATION OF POINTS Noncompliance was reported in NPDES monthly report. Operator indicated he was aware of requirement but that it had not been met due to an oversight.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT
- Easy Abatement Situation
- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
 - Rapid Compliance -1 to -10*
(Permittee used diligence to abate the violation)
 - Normal Compliance 0
(Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

- Difficult Abatement Situation
- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
 - Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
 - Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? Easy ASSIGN GOOD FAITH POINTS -15

PROVIDE AN EXPLANATION OF POINTS Operator was given until July 2, 1985 to abate. NOV was terminated July 2, 1985, which according to the inspector was very quick compliance.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N85-2-10-2, #1</u>
	I. TOTAL HISTORY POINTS	<u>2</u>
	II. TOTAL SERIOUSNESS POINTS	<u>13</u>
	III. TOTAL NEGLIGENCE POINTS	<u>18</u>
	IV. TOTAL GOOD FAITH POINTS	<u>- 15</u>
	TOTAL ASSESSED POINTS	<u>18</u>
	TOTAL ASSESSED FINE	<u>\$ 180</u>

Mike Earl

ASSESSMENT DATE 8-15-85 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Valley Camp/Belilna Complex NOV-# N85-2-10-2

PERMIT # ACT/007/011 VIOLATION 2 OF 2

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 8-15-85 EFFECTIVE ONE YEAR DATE 8-16-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-9-1</u>	<u>11-19-84</u>	<u>1</u>	<u> </u>	<u> </u>	<u> </u>
<u>N84-7-6-1</u>	<u>11-19-84</u>	<u>1</u>	<u> </u>	<u> </u>	<u> </u>
<u>N84-2-23-1</u>	<u>8-16-85</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>

1 point for each past violation, up to one year
5 points for each past violation in a CO, up to one year
No pending notices shall be counted

TOTAL HISTORY POINTS 2

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

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

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS Assessed as likely based on inspector statement that both the inlet and outlet to the Whiskey Creek bypass are close to the active zone. Buffer zone should be posted as a precaution to prevent damages.

3. Would or did the damage or impact remain within the exploration or permit area? Yes

	RANGE	MID-POINT
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 3

PROVIDE AN EXPLANATION OF POINTS Inspector indicated that snowmelt passed through a silt fence and no damage occurred.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

	RANGE	MID-POINT
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS _____

TOTAL SERIOUSNESS POINTS (A or B) 13

III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

	0	MID-POINT
No Negligence	0	0
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
 ASSIGN NEGLIGENCE POINTS 1

PROVIDE AN EXPLANATION OF POINTS Inspector indicated that markers had been in place at one time and this may have been an oversight.

WORKSHEET FOR ASSESSMENT OF PENALTIES
 UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Valley Camp/Belina Complex NOV # N85-2-11-1

PERMIT # ACT/007/001 VIOLATION 1 OF 1

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 8-16-85 EFFECTIVE ONE YEAR DATE 8-17-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-9-1</u>	<u>11-19-84</u>	<u>1</u>	<u> </u>	<u> </u>	<u> </u>
<u>N84-7-6-1</u>	<u>11-19-84</u>	<u>1</u>	<u> </u>	<u> </u>	<u> </u>
<u>N84-2-23-1</u>	<u>8-16-85</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>

1 point for each past violation, up to one year
 5 points for each past violation in a CO, up to one year
 No pending notices shall be counted

TOTAL HISTORY POINTS 2

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AO will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? water pollution

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

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 17

PROVIDE AN EXPLANATION OF POINTS A sample of the mine discharge contained 114 ppm TSS. Per inspector statement this is 44 ppm in excess of the applicable effluent limitations.

3. Would or did the damage or impact remain within the exploration or permit area? No

	<u>RANGE</u>	<u>MID-POINT</u>
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 15

PROVIDE AN EXPLANATION OF POINTS Per inspector statement damage in the form of coal fines, probably occurred. A discharge sample obtained 5 days later was in compliance so inspector estimated damage from this event was relatively minor. Whiskey Creek was clear above discharge point, and darker in the channel below the discharge point and extended all the way down the canyon.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement?

	<u>RANGE</u>	<u>MID-POINT</u>
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 32

III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

		<u>MID-POINT</u>
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
 ASSIGN NEGLIGENCE POINTS 6

PROVIDE AN EXPLANATION OF POINTS Inspector stated that the filter pond needed cleaning and that the operator should better manage the mine discharge pump rate. This seems to have been a recurring problem.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO -EASY ABATEMENT

- Easy Abatement Situation
- Immediate Compliance -11 to -20*
(Immediately following the issuance of the NOV)
 - Rapid Compliance -1 to -10*
(Permittee used diligence to abate the violation)
 - Normal Compliance 0
(Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO - DIFFICULT ABATEMENT SITUATION

- Difficult Abatement Situation
- Rapid Compliance -11 to -20*
(Permittee used diligence to abate the violation)
 - Normal Compliance -1 to -10*
(Operator complied within the abatement period required)
 - Extended Compliance 0
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Operator was to have abated this NOV immediately. Inspector stated that to the best of their knowledge no affirmative action was taken to bring the discharge into compliance.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N85-2-11-1</u>
	I. TOTAL HISTORY POINTS	<u>2</u>
	II. TOTAL SERIOUSNESS POINTS	<u>32</u>
	III. TOTAL NEGLIGENCE POINTS	<u>6</u>
	IV. TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>40</u>
	TOTAL ASSESSED FINE	<u>\$ 600</u>

Mike Earl

ASSESSMENT DATE 8-16-85 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT