

0016



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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September 23, 1994

CERTIFIED RETURN RECEIPT
P 074 976 225

Mr. Lonnie Mills
Amax Coal Company
P.O. Drawer PMC
Price, Utah 84501

Dear Mr. Mills:

Re: Proposed Assessment for State Violation Nos. N94-41-3-1 and N94-41-4-1, Amax Coal Company, Castle Gate Mine, ACT/007/004, Folder #5, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessments for the above-referenced violations. The violations were issued by Division Inspector, Paul Baker on August 24, 1994, and August 30, 1994, respectively. Rule R645-401-600 et sec. has been utilized to formulate the proposed penalties. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notices of Violation, has been considered in determining the facts surrounding the violations and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this



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RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

MRM

PS Form 3800, June 1985

Sentry MILLS	
AMAX COAL CO	
1 O DRAWER PMC	
P.O. State and ZIP Code PRICE UT 84501	
Postage	\$ 25
Certified Fee	1
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	1
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 275
Postmark or Date	SEP 28 1984 MOUNTAIN VIEW CITY, UT MAIL

DOGM ACT/007/004 FLDR #5 N94-4-3

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

* U.S.G.P.O. 1988-217-132

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ACT/007/004
September 23, 1994

letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalties will become final, and the penalties will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

A handwritten signature in cursive script that reads "Dawn R. Haddock for". The signature is written in black ink and is positioned above a horizontal line.

Joseph C. Helfrich
Assessment Officer

jbe
Enclosure
cc/enc: Bernie Freeman, OSM
CATGATE.PAL

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

COMPANY/MINE Amax Coal Company/Castle Gate Mine NOV #N94-41-3-1

PERMIT # ACT/007/004 VIOLATION 1 OF 1

ASSESSMENT DATE 9/23/94 ASSESSMENT OFFICER Joseph C. Helfrich

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 9/23/94 EFFECTIVE ONE YEAR TO DATE 9/23/94

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____

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 0

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 Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or 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? Occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

A small undisturbed drainage in Barn Canyon outside the disturbed area accepts drainage from diversion CGD-5. Runoff from this diversion caused erosion in the natural drainage and increased offsite sedimentation.

3. What is the extent of actual or potential damage? RANGE 0 - 25*

*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 12

PROVIDE AN EXPLANATION OF POINTS

The natural drainage was eroded into a gully up to six feet deep and from about three to twenty feet in width. The drainage dropped approximately 290 feet over 600 feet linear distance. Much of the material eroded from the drainage was deposited at the base of the slope in an alluvial fan, but almost certainly continued down the drainage to the Price River. Contributions of sediment to the Price River and erosion of the drainage were relatively short-lived, but they would continue at an accelerated pace if the drainage was not repaired.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____ RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially 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.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

The undisturbed drainage is not discussed in the mining and reclamation plan. The operator should have realized that water from CGD-5 needed to be routed to a stable undisturbed drainage that could safely pass the flow from a precipitation event of the size for which CGD-5 was designed. Runoff from the storm that apparently caused most of the problem was calculated to be almost exactly the same as the amount of runoff expected from the storm for which the undisturbed drainage and diversion CGD-5 should have been designed.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

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)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* 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**

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)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N94-41-3-1

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>32</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>47</u>
	TOTAL ASSESSED FINE	<u>\$ 880.00</u>

jbe

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

COMPANY/MINE Amax Coal Company/Castle Gate Mine NOV #N94-41-4-1

PERMIT # ACT/007/004 VIOLATION 1 OF 1

ASSESSMENT DATE 9/23/94 ASSESSMENT OFFICER Joseph C. Helfrich

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 9/23/94 EFFECTIVE ONE YEAR TO DATE 9/23/94

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____

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 0

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 Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or 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 and Loss of Reclamation/Revegetation Potential

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

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 7

PROVIDE AN EXPLANATION OF POINTS

No event occurred as a result of diversion CGD-19 failing. Ditches within the disturbed area are designed to control runoff, prevent erosion and loss of reclamation potential, to help keep the site stable, and to prevent offsite sedimentation. All of the water and sediment that should have gone into pond 13 from this diversion either went into pond 13 or another pond within the disturbed area. Because of the location of the ditch and the sediment ponds, there is very little chance of the event occurring.

3. What is the extent of actual or potential damage?

RANGE 0 - 25*

*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 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

B. Hindrance Violations MAX 25 PTS

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

RANGE 0 - 25

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

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A or B) 7

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.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

Previous notice of violation #N91-18-1-1, and failure to abate the referenced notice of violation as well (CO #91-18-1-1), and notice of violation N92-39-7-1 have been issued to the operator attendant to the performance of diversion ditch CGD-19. Additionally, in September 1993, Division staff sent correspondence to the operator expressing concerns about the construction of the referenced diversion.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- 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)
(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* 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**

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)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ **ASSIGN GOOD FAITH POINTS** -0

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N94-41-4-1

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>7</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>27</u>
	TOTAL ASSESSED FINE	<u>\$ 340.00</u>

jbe