

0024



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

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August 19, 1994

CERTIFIED RETURN RECEIPT
P 074 976 134

AMAX Coal Company
Lonnie Mills
Sr. Environmental Engineer
P.O. Drawer PMC
Price, UT 84501

Re: Proposed Assessment for State Violation No. N94-41-2-2 1/2 and 2/2, AMAX Coal Company, Castle Gate Mine, ACT/007/004, Folder #5, Carbon County, Utah

Dear Mr. Mills:

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 reassessment for the above-referenced violation. The violation was issued on June 27, 1994, by Inspector Paul Baker. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation 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

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. 1993-217-132

PS Form 3800, 4/7/93 1985
 BB DOGM 12/22/94 ACT//007/004 N9441-2-2 FED 5

F 074 976 154

RECEIPT FOR CERTIFIED MAIL

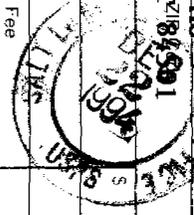
NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL

(See Reverse)

LONNIE MITTS
 SENIOR ENVIRONMENTAL ENGINEER

SAMAX GOAL COMPANY
 PO BOX PMC

PERFECT DAY 84591



Postage	
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 2.29
Postmark or Date	

this 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 penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed reassessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

/sm
Enclosure
cc: Bernie Freeman, OSM

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

COMPANY/MINE AMAX Coal Company/Castle Gate Mine NOV #N94-41-2-2

PERMIT # ACT/007/004

VIOLATION 1 OF 2

ASSESSMENT DATE 08/19/94

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 08/19/93

EFFECTIVE ONE YEAR TO DATE 08/19/94

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? Unlikely.

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 9

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the precipitation event large enough to cause runoff five inches or greater in depth would cause the event to occur, The probability of this event occurring was deemed to be unlikely.

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

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

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.

TOTAL SERIOUSNESS POINTS (A or B) 9

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 18

PROVIDE AN EXPLANATION OF POINTS

The operator was cognizant of the need to have sediment control structures in place for a major part of the disturbed area before proceeding with some of the reclamation operations. Reclamation including seeding was completed in some areas and the sediment control plan had not been implemented.

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

The permittee complied with the notice of violation within the abatement period required and/or as subsequently extended.

V. ASSESSMENT SUMMARY FOR N94-41-2-2 1/2

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>9</u>
III.	TOTAL NEGLIGENCE POINTS	<u>18</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>

TOTAL ASSESSED POINTS 27

TOTAL ASSESSED FINE \$ 340.00

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

COMPANY/MINE AMAX Coal Company/Castle Gate Mine **NOV #** N94-41-2-2

PERMIT # ACT/007/004

VIOLATION 2 **OF** 2

ASSESSMENT DATE 08/19/94

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 08/19/93

EFFECTIVE ONE YEAR TO DATE 08/19/94

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?
Air 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 significant amount of dust was observed at the site as a result of the activities of the earth moving equipment and subsequently not watering the operational and road areas for future dust suppression. The inspector's statement also revealed that the main hazard was to the health of the contractor's employees from inhaling the dust. Reduced visibility could also have resulted in an accident. The inspector was not aware of any accidents occurring due to lack of proper dust suppression. There was degradation of air quality nearly the entire time the equipment was operating in the area, but it was not permanent. However, there was some dust that drifted outside the permit area, but the amount was probably minimal. Also, there are no occupied buildings near the area that is being reclaimed.

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

ASSIGN DAMAGE POINTS 4

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

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.

TOTAL SERIOUSNESS POINTS (A or B) 24

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 negligence.

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

As part of conducting mining and reclamation operations, the operator should have been aware of the requirements of the clean air and water quality approval order. Also, since it had been very dry, the site was as well very dusty. It seemed apparent that 3 or more inches of pottery dust was obvious and appropriate dust suppression measures should have been taken by the operator.

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** -10

PROVIDE AN EXPLANATION OF POINTS

The operator exercised diligence in abating the violation inasmuch as it appeared as
though the operator took immediate steps to comply with the abatement requirement.
There was immediate compliance.

V. **ASSESSMENT SUMMARY FOR** N94-41-2-2 2/2

I.	TOTAL HISTORY POINTS	<u> 0 </u>
II.	TOTAL SERIOUSNESS POINTS	<u> 24 </u>
III.	TOTAL NEGLIGENCE POINTS	<u> 15 </u>
IV.	TOTAL GOOD FAITH POINTS	<u> -10 </u>
	TOTAL ASSESSED POINTS	<u> 29 </u>
	TOTAL ASSESSED FINE	<u> \$ 380.00 </u>