



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

Scott M. Matheson, Governor  
Temple A. Reynolds, Executive Director  
Dianne R. Nielson, Ph.D., Division Director

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

December 27, 1984

CERTIFIED RETURN RECEIPT REQUESTED  
P 396 996 702

Mr. Ben Grimes  
Plateau Mining Company  
P.O. Box 539  
Oruce, Utah 84501

Dear Mr. Grimes:

RE: Proposed Assessment for State Violation No. N84-4-11-1,  
ACT/007/006, 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 David Lof on July 18, 1984. 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.

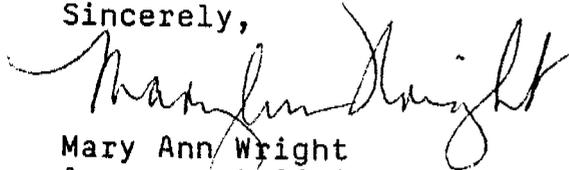
Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Mr. Lorin Nielsen, Assessment Officer, at the above address.) If no timely request is made, 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.

For your information, the Assessment Officer is not authorized under the UMC regulations to vacate NOV's. An NOV must go to a conference in order to be considered for abatement.

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Mr. Ben Grimes  
December 27, 1984

However, all information which is sent to the Assessment Officer within 15 days of issuance of the NOV is helpful in establishing the proposed assessment. Your August 1, 1984 letter has been provided to the Assessment Conference Officer, should you choose to request a conference.

Sincerely,



Mary Ann Wright  
Assessment Officer

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

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

COMPANY/MINE Plateau/Starpoint NOV # N84-4-11-1

PERMIT # ACT/007/006 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 12-24-84 EFFECTIVE ONE YEAR DATE 12-25-83

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
<u>N84-4-1-1</u>	<u>6-30-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N84-4-7-6</u>	<u>11-10-84</u>	<u>6</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N83-4-14-1</u>	<u>12-23-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N83-6-1-1</u>	<u>3-16-84</u>	<u>1</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 9

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

- What is the event which the violated standard was designed to prevent? Water Pollution
- 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 5

PROVIDE AN EXPLANATION OF POINTS Per inspector's narrative, slurry was discharged into Sediment Pond #5 and it discharged through the emergency spillway as a result of the pond being undersized. It is unlikely that water pollution occurred at Sediment Pond #5 or 3 according to inspector. Assessed accordingly.

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

	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 8

PROVIDE AN EXPLANATION OF POINTS Damage would not remain within the permit area.

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	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE \_\_\_\_\_

Negligence

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS This would be considered a violation of a specific permit condition for not building ponds to specifications. However, the permittee realized this and began working with the Division in April 1984 to clear up the situation. Per inspector's and operator's statements the NOV was issued after the permittee presented requested survey data. Assessed as negligence in not building the ponds to specifications.

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? difficult ASSIGN GOOD FAITH POINTS -11

PROVIDE AN EXPLANATION OF POINTS Per inspector's narrative, operator worked diligently to abate the NOV although another emergency situation caused use of the full time to abate. Good Faith is warranted.

V. ASSESSMENT SUMMARY FOR N84-4-11-1

I. TOTAL HISTORY POINTS	<u>9</u>
II. TOTAL SERIOUSNESS POINTS	<u>13</u>
III. TOTAL NEGLIGENCE POINTS	<u>12</u>
IV. TOTAL GOOD FAITH POINTS	<u>-11</u>
 TOTAL ASSESSED POINTS	 <u>23</u>
 TOTAL ASSESSED FINE	 <u>\$ 260</u>

*Mary Ann Wright*

ASSESSMENT DATE 12-24-84 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT \_\_\_\_\_ FINAL ASSESSMENT