0038

File

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
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May 21, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 402 457 685

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

Dear Mr. Grimes:

RE: Proposed Assessment for State Violation No. N84-6-15-1, 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 Barton Kale on January 4, 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

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

COMPANY/MINE Plateau/Starpoint NOV # N84-6-15-1

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 5-15-85 EFFECTIVE ONE YEAR DATE 5-16-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N84-4-1-1	6-30-84	1			
N84-4-7-6	11-19-84	6			
N84-4-11-1 FA	5-10-85	0			
N83-4-14-1	12-23-84	1			
C84-4-3-1 FA	4-17-85	0			

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 8

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? loss of reclamation potential

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 1

PROVIDE AN EXPLANATION OF POINTS Per inspectors report the area in question did contain enough topsoil to salvage. However, the area was requested to be protected and no protection had taken place at the time of inspection.

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 2

PROVIDE AN EXPLANATION OF POINTS This area was rated at the lower end of the range due to the inspectors statement that even though protection for the topsoil was not provided timely, He had reason to believe that enough topsoil was available for salvage.

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) 3

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.

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

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS Assessed as negligence based on the fact that the operator should have provided protection for the topsoil until such time as the matter was resolved. The assessment also took into consideration information provided by the operator.

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 -1

PROVIDE AN EXPLANATION OF POINTS Permittee was given a 2 week abatement period from January 4, 1985. Based on inspection of January 25, 1985 operator had complied and work was completed.

V. ASSESSMENT SUMMARY FOR N84-6-15-1

I. TOTAL HISTORY POINTS	8
II. TOTAL SERIOUSNESS POINTS	3
III. TOTAL NEGLIGENCE POINTS	5
IV. TOTAL GOOD FAITH POINTS	-1
TOTAL ASSESSED POINTS	15
TOTAL ASSESSED FINE	$ 150

Mike Earl

ASSESSMENT DATE May 15, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

7313Q