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STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Re 02-86

Rob

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

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

May 30, 1986

CERTIFIED RETURN RECEIPT REQUESTED
P 001 720 585

Mr. Douglas C. Pearce
Kaiser Coal Corporation
P. O. Box D
Sunnyside, Utah 84539

Dear Mr. Pearce:

RE: Finalized Assessment for State Violation No's. N85-4-17-3, C85-4-6-1, N85-4-20-2, N85-4-21-3, C85-4-8-3, N85-4-24-3, N85-4-19-1, ACT/007/007, Catalog # 8, Carbon County, Utah

The civil penalty for the above referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts which were not available on the date of the proposed assessment, due to the length of the abatement period.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must have escrowed the assessed civil penalty with the Division within a maximum of 30 days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division and mail % Jan Brown at the address listed above.

Thank you for your cooperation.

Sincerely,

Handwritten signature of Barbara Roberts in cursive.

Barbara Roberts
Assessment Conference Officer

re
Enclosure
cc: Donna Griffin, OSM Albuquerque Field Office
9099Q

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-19-1
 PERMIT # ACT/007/007 VIOLATION 1 OF 1

Nature of violation: Failure to prevent to the extent possible,
additional contributions of sediment.
 Date of termination: _____

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>16</u>	<u>16</u>
Extent of Damage	<u>8</u>	<u>8</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>5</u>	<u>5</u>
(4) Good Faith	<u>0</u>	<u>0</u>
 TOTAL	 <u>33</u>	 <u>40</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated as a result of the time elapsed between the issuance of the citation and the proposed penalty.

Assessment Date 5-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser/Sunnyside NOV # 85-4-17-3
 PERMIT # ACT/007/007 VIOLATION 1 OF 3

Nature of violation: Failure to construct and maintain diversions;
failure to mine in accordance with approved MRP

Date of termination: _____

	Proposed Assessment	Final Assessment
(1) History/Prev. Vio.	4	11
(2) Seriousness		
(a) Probability of Occurrence	0	0
Extent of Damage	0	0
(b) Hindrance to Enforcement		
(3) Negligence	16	6
(4) Good Faith	0	0
TOTAL	20	17
	TOTAL ASSESSED FINE	\$ 0

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and receipt of proposed assessment. Negligence points reduced based upon information tending to show operator was not acting willfully in failing to timely construct approved ditches.

Assessment Date 5-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser/Sunnyside Mine NOV # N85-4-17-3
 PERMIT # ACT/007/007 VIOLATION 2 OF 3

Nature of violation: Failure to conduct mining activities in accordance with an approved interim permit.
 Date of termination: _____

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>2</u>	<u>2</u>
Extent of Damage	<u>8</u>	<u>8</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>16</u>	<u>8</u>
(4) Good Faith	<u>0</u>	<u>0</u>
TOTAL	<u>30</u>	<u>29</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and receipt of proposed assessment. Negligence points reduced as a result of information tending to show that operator was not acting willfully in constructing the pond as built.

Assessment Date 05-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-17-3
 PERMIT # ACT/007/007 VIOLATION 3 OF 3

Nature of violation: Failure to prevent short-circuiting
 Date of termination: _____

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>5</u>	<u>5</u>
Extent of Damage	<u>8</u>	<u>8</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>16</u>	<u>4</u>
(4) Good Faith	<u>0</u>	<u>0</u>
 TOTAL	 <u>33</u>	 <u>28</u>
	TOTAL ASSESSED FINE	\$ <u>0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and receipt of proposed assessment. Negligence points were reduced due to information indicating that operator was attempting to remedy the problem, but was unable to determine the cause of the leak. The pumping of mine water continued due to an unsafe buildup of water in the mine with no other alternative then but the Manshaft Pond.

Assessment Date 5-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-20-2
 PERMIT # ACT/007/007 VIOLATION 1 OF 2

Nature of violation: Failure to pass disturbed drainage through sediment pond before leaving permit area
 Date of termination: July 25, 1985

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>5</u>	<u>5</u>
Extent of Damage	<u>8</u>	<u>8</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>18</u>	<u>10</u>
(4) Good Faith	<u>0</u>	<u>0</u>
 TOTAL	 <u>35</u>	 <u>34</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and proposed assessment. Negligence points reduced as a result of information tending to show that operator did not willfully fail to complete diversion structures.

Assessment Date 05-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-20-2
 PERMIT # ACT/007/007 VIOLATION 2 OF 2

Nature of violation: Failure to maintain water treatment facilities as approved.

Date of termination: _____

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>5</u>	<u>5</u>
Extent of Damage	<u>8</u>	<u>8</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>20</u>	<u>12</u>
(4) Good Faith	<u>0</u>	<u>0</u>
TOTAL	<u>37</u>	<u>36</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and receipt of proposed assessment. Negligence points reduced; operator not acting in a willful manner, but was merely negligent in failing to replenish the flocculent.

Assessment Date 05-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-21-3
 PERMIT # ACT/007/007 VIOLATION 1 OF 3

Nature of violation: Failure to meet effluent limitations. Failure to pass discharge through sediment structure
 Date of termination: August 29, 1985

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>16</u>	<u>20</u>
Extent of Damage	<u>9</u>	<u>9</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>2</u>	<u>2</u>
(4) Good Faith	<u>-20</u>	<u>- 20</u>
TOTAL	<u>11</u>	<u>22</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and proposed penalty. UMC 845.13 (b)(2) does not provide for a range of points for the "occurred" category. Therefore, probability points raised to 20.

Assessment Date 5-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-21-3
 PERMIT # ACT/007/007 VIOLATION 3 OF 3

Nature of violation: Failure to conduct mining activities in accordance with an approved interim permit.
 Date of termination: October 3, 1985

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>0</u>	<u>0</u>
Extent of Damage	<u>0</u>	<u>0</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>5</u>	<u>5</u>
(4) Good Faith	<u>- 6</u>	<u>- 6</u>
 TOTAL	 <u>3</u>	 <u>10</u>
	TOTAL ASSESSED FINE	\$ <u>0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and proposed penalty.

Assessment Date 5-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-24-3
 PERMIT # ACT/007/007 VIOLATION 1 OF 3

Nature of violation: Failure to install and maintain sediment controls

Date of termination: _____

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>5</u>	<u>5</u>
Extent of Damage	_____	_____
(b) Hindrance to Enforcement	_____	_____
(3) Negligence	<u>16</u>	<u>10</u>
(4) Good Faith	_____	_____
 TOTAL	 <u>25</u>	 <u>26</u>
	TOTAL ASSESSED FINE	\$ <u>0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and proposed assessment. Negligence points reduced as a result of information indicating that operator was not acting willfully in failing to install the approved sediment control structures.

Assessment Date 05-22-86 Assessment Conference Officer Barbara W. Roberts

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-24-3
 PERMIT # ACT/007/007 VIOLATION 2 OF 3

Nature of violation: Failure to maintain sediment controls;
Failure to maintain Class I roads.
 Date of termination: _____

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>12</u>	<u>12</u>
Extent of Damage	<u>9</u>	<u>9</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>7</u>	<u>7</u>
(4) Good Faith	<u>0</u>	<u>0</u>
 TOTAL	 <u>32</u>	 <u>39</u>
	TOTAL ASSESSED FINE	\$ <u>0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and proposed penalty.

Assessment Date 05-22-86 Assessment Conference Officer Barbara W. Roberts

0109Q

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

COMPANY/MINE Kaiser Coal/Sunnyside NOV # N85-4-24-3
 PERMIT # ACT/007/007 VIOLATION 3 OF 3

Nature of violation: Failure to maintain sediment controls.
 Date of termination: September 25, 1985

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>4</u>	<u>11</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>6</u>	<u>5</u>
Extent of Damage	<u>9</u>	<u>8</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3) Negligence	<u>17</u>	<u>0</u>
(4) Good Faith	<u>0</u>	<u>0</u>
TOTAL	<u>36</u>	<u>24</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:
 (Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Civil penalty vacated due to length of time elapsed between issuance of citation and proposed penalty. Violation upheld regarding maintenance issue on channel D-3. Inspector indicated that sediment buildup may not have been so excessive so as to be inadequate to safely pass the appropriate storm event, but was close and may have been inadequate. As a result of this close judgement call, the operator cannot be determined negligent. Violation not upheld regarding boulders in #2 undisturbed diversion. However, operator is responsible for any damage occurring to disturbed area as a result of erosion or overflow caused by the #2 channel.

Assessment Date 5-22-86 Assessment Conference Officer Barbara W. Roberts



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
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355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

June 2, 1986

CERTIFIED RETURN RECEIPT REQUESTED
P 001 720 587

Mr. Douglas C. Pearce
Kaiser Coal Corporation
P O Box D
Sunnyside, Utah 84539

Dear Mr. Pearce:

RE: Finalized Assessment for State Violation No's C85-4-6-1,
C85-4-8-3, ACT/007/007, Catalog #8, Carbon County, Utah

Attached please find Finalized Assessments for Cessation Orders, C85-4-6-1, and C85-4-8-3 which I inadvertently left out of the original assessment mailed to you on May 30, 1986.

I apologize for any inconvenience this may have caused you.

Sincerely,


Rosemary Fiorreaga
Inspection & Enforcement Secretary