

0023



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

*Mine Sub
Folder # 5*

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

March 7, 1994

TO: Carl Roberts, Budget and Accounting Officer
FROM: Vicki Bailey, Executive Secretary *VB*
RE: Refund Check for Notice of Violation N92-32-17-1, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Carbon County, Utah

Please prepare a refund check from the State of Utah to Sunnyside Coal Company in the amount of \$214.14.

The finalized amount of \$1,040.00 for state violation N92-32-17-1 was paid to the Division of Oil, Gas and Mining by Sunnyside Coal Company on June 25, 1993, check No. 9106. On December 23, 1993, the Division received a letter from Sunnyside Coal Company requesting a reassessment for this violation. A finalized assessment was sent to you on February 4, 1994, showing a reduced penalty amount of \$840.00 for N92-32-17-1, creating an overpayment of \$200. There is \$14.14 in interest at 10% per annum, U.C.A. § 15-1-1, establishing a balance of \$214.14 to be refunded.

vb
Attachments
cc: J. Carter
L. Braxton

ESCROW



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

Michael O. Leavitt
Governor

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355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

100-11111
2-9-94

February 4, 1994

CERTIFIED RETURN RECEIPT REQUESTED
P 074 978 384

Mr. Joe Fielder, General Mine Manager
Sunnyside Coal Company
P.O. Box 99
Sunnyside, UT 84539

Re: Finalized Assessment for State Violation #N92-32-17-1, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Folder #5, Carbon County, Utah

Dear Mr. Fielder:

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 including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Please remit payment to the Division, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,


Ronald W. Daniels
Assessment Conference Officer

sm
Enclosure

cc: Bernie Freeman, OSM, AFO

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

COMPANY/MINE Sunnyside Coal Company/Sunnyside Mine

NOV #N92-32-17-1

PERMIT # ACT/007/007

VIOLATION 1 of 1

Assessment Date 2/3/94 Assessment Officer Ronald W. Daniels

Nature of Violation:

Failure to maintain diversions (culverts).

Date of Termination: 4/15/93

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1)History/Previous Violations	<u>10</u>	<u>10</u>
(2)Seriousness		
(a) Probability of Occurrence	<u>20</u>	<u>20</u>
Extent of Damage	<u>5</u>	<u>5</u>
(b) Hindrance to Enforcement	<u> </u>	<u> </u>
(3)Negligence	<u>16</u>	<u>16</u>
(4)Good Faith	<u>-0</u>	<u>-5</u>
Total Points	<u>51</u>	<u>46</u>

TOTAL ASSESSED FINE \$ 840

NARRATIVE:

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

Difficult abatement, normal compliance points are awarded for good faith. The original final assessment dated 3/16/93 deferred the award of good faith points until the violation was terminated.

Sunnyside Coal Company

Operations • Highway 123 • P.O. Box 99 • Sunnyside, Utah 84539

December 23, 1993

RECEIVED

DEC 27 1993

DIVISION OF
OIL, GAS & MINING

Mr. Joseph C. Helfrich
Assessment Officer
Utah Division of Oil, Gas & Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Dear Joe:

Re: Reassessment for NOV N92-32-17-1, Failure
to Maintain Diversions (Culverts)

Sunnyside Coal Company requests a reassessment conference for NOV N92-32-17-1, Failure to Maintain Diversions (Culverts), to discuss the following facts to hopefully reduce the final assessment points for the violation:

1. When N92-32-17-1 was written, two culverts were mentioned for "failure to maintain."
2. In the Division's final assessment, good-faith points were to be considered upon termination of the violation. Mr. Henry Sauer terminated 92-32-17-1 on April 15, 1993 (abatement requirements were superseded by ACT/007/007-93C for the Fan Canyon BTCA area).
3. In Ms. Pamela Grubaugh-Littig's approval letter for ACT/007/007-93C, Sunnyside Coal was given until November 1, 1993, to reclaim the Fan Canyon BTCA or install the culvert.
4. Sunnyside Coal Company has difficulty with a violation being terminated before the work is done; therefore, Sunnyside Coal feels that good-faith points should have been considered post-November 13 when the Fan Canyon rough grading was completed.
5. Sunnyside Coal believes that (a) the fine and the final assessment points in 92-32-17-1 for "failure to maintain" one culvert are excessive; and (b) "good-faith points" should be granted for the extraordinary efforts made to reclaim the Fan Canyon BTCA area during 1993.

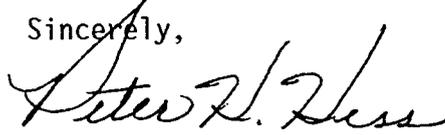
Corporate Offices
The Registry
1113 Spruce Street
Boulder, CO 80302
303-938-1506
FAX: 303-938-5050

Operations
Highway 123
P.O. Box 99
Sunnyside, UT 84539
801-888-4421
FAX: 801-888-2581

Mr. Joseph C. Helfrich
Page 2
December 23, 1993

Your review of the above facts and the granting of a reassessment conference will be appreciated. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Peter H. Hess". The signature is written in black ink and is positioned above the printed name and title.

Peter H. Hess
Environmental Coordinator

PHH:th

Enclosures

cc: Ms. Vicki Bailey
Mr. Henry Sauer

ACT/007/007

SUNNYSIDE COAL COMPANY

INVOICE NO.	DATE	REFERENCE	GROSS AMOUNT	DISCOUNT	NET AMOUNT
N92-32-13-1	6-25-93	6-25-93	\$800.00		\$800.00
N92-32-17-1			\$1,040.00		\$1,040.00
N92-26-5-1			\$560.00		\$560.00
N92-32-1			\$1,000.00		\$1,000.00
			\$1,000.00		\$1,000.00
TOTALS			\$4,400.00		\$4,400.00

RECEIVED

JUN 26 1993

DIVISION OF OIL, GAS & MINING

CHECK NO. 9106
VENDOR DIVISION OF OIL, GAS AND MINING

SUNNYSIDE COAL COMPANY

9106

82-2
1070

Norwest Bank Boulder • National Association
(303) 442-0361 • 1242 Pearl Street • Boulder, CO 80302

CHECK NO. 9106

DATE 6-25-93

AMOUNT
****\$4,400.00

FOUR THOUSAND FOUR HUNDRED DOLLARS AND NO CENTS

PAY TO THE ORDER OF

DIVISION OF OIL, GAS AND MINING
355 WEST NO. TEMPLE
SALT LAKE CITY, UT 84180-1203

SUNNYSIDE
ACCOUNTS PAYABLE ACCOUNT

⑈009106⑈ ⑆107000220⑆ 182 3500766⑈

88



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 17, 1993

ACT 1007/007 Vicki

Finalized
4-17-93
C92-32-1-1 - 1500
N92-32-13-1 - 700
N92-32-14-1 - 1000
N92-32-15-1 - 1000
N92-32-16-1 - 1000
N92-32-17-1 - 1040

CERTIFIED RETURN RECEIPT REQUESTED
P 074 978 330

Mr. Joe Fielder, General Mine Manager
Sunnyside Coal Company
P.O. Box 99
Sunnyside, Utah 84539

Dear Mr. Fielder:

Re: Finalized Assessment for State Violation #C92-32-1-1, N92-32-12-1, N92-32-13-1, N92-32-14-1, N92-32-15-1, N92-32-16-1, N92-32-17-1, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Folder #5, Carbon County, Utah

paid 5/3
12-25-93
no. H.C. or IF
no request

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 including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

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 escrow the assessed civil penalty with the Division within a maximum of thirty (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, mail c/o Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,

Ronald W. Daniels
Ronald W. Daniels
Assessment Conference Officer

Enclosure
cc: Bernie Freeman, OSM, AFO
an equal opportunity employer

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

COMPANY/MINE Sunnyside Coal Co./Sunnyside MineNOV #N92-32-17-1PERMIT # ACT/007/007VIOLATION 1 OF 1ASSESSMENT DATE 12/11/92ASSESSMENT 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 12/11/92EFFECTIVE ONE YEAR TO DATE 12/11/91

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N92-32-2-1</u>	<u>06/28/92</u>	<u>1</u>
<u>N92-32-3-1</u>	<u>07/19/92</u>	<u>1</u>
<u>N92-32-4-1</u>	<u>07/19/92</u>	<u>1</u>
<u>N92-32-5-1</u>	<u>06/28/92</u>	<u>1</u>
<u>N92-25-2-1</u>	<u>06/14/92</u>	<u>1</u>
<u>N92-32-7-1</u>	<u>07/01/92</u>	<u>1</u>
<u>N92-32-8-1</u>	<u>07/01/92</u>	<u>1</u>
<u>N92-32-9-1</u>	<u>06/28/92</u>	<u>1</u>
<u>N92-20-2-1</u>	<u>09/13/92</u>	<u>1</u>
<u>N92-32-10-1</u>	<u>09/27/92</u>	<u>1</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 10

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

The permittee has failed to properly maintain onsite culverts.

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 5

PROVIDE AN EXPLANATION OF POINTS

Minimal with respect to the NOV.

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) 25

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 16

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed the operator had received prior warning of the situation by DOGM staff.

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 violation has not been terminated.

V. ASSESSMENT SUMMARY FOR N92-32-17-1

I.	TOTAL HISTORY POINTS	<u>10</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>16</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 0</u>
	TOTAL ASSESSED POINTS	<u>51</u>
	TOTAL ASSESSED FINE	<u>\$1,040.00</u>

jbe