

0016



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

*File*

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

March 27, 1991

CERTIFIED RETURN RECEIPT  
P 074 979 051

Mr. Jon Passic  
Genwal Coal Company  
Wellington Prep. Plant  
P.O. Box 766  
Wellington, Utah 84542

Dear Mr. Passic:

Re: Proposed Assessment for State Violation No. N91-28-1-1,  
Wellington Prep. Plant, ACT/007/012, Folder #5, Carbon  
County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Darron Haddock on March 7, 1991. Rule R614-401 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 this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Within 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.

If a timely request is not made, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Joseph C. Helfrich'.  
Joseph C. Helfrich  
Assessment Officer

Enclosure

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

COMPANY/MINE Genwal Coal Co./Wellington Prep. Plant NOV # N91-28-1-1

PERMIT # ACT/007/012 VIOLATION 1 OF 1

ASSESSMENT DATE 03/26/91 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 03/26/91 EFFECTIVE ONE YEAR TO DATE 03/26/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N90-28-7-1</u>	<u>12/21/90</u>	<u>1</u>
<u>N90-17-8-1</u>	<u>01/26/91</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 2

**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? Hindrance

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? \_\_\_\_\_

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

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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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

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B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Inspector's statement revealed that stipulation UMC 788.14-(1)-SCL required submittal of updated operation and reclamation plan. This stipulation has not been completely complied with without updated plans and maps thorough inspection of the sight is difficult.

TOTAL SERIOUSNESS POINTS (A or B) 12

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

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Inspector's statement revealed that due to a change of personel at the operations, the operator fell behind in complying with the stipulation new consultants have picked up the responsibilities, but have had insufficient time to meet the compliance requirements of the stipulation. The operator requested an extention of time to comply with the January 1, 1991 date for reclamation plans. An extention was granted to March 1, 1991. New maps are now being generated which will require more time to complete. An additional extention was requested February 26, 1991, however, the Division decided not to extend the stipulation another time.

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 agency received a compliance schedule as required by the abatement of a NOV on  
the abatement due date. Receipt of this information was prompted by phone calls from  
the Division to the Consultant, thus no good faith points are awarded for this NOV.

V. ASSESSMENT SUMMARY FOR N91-28-1-1

I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>12</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>22</u>
	TOTAL ASSESSED FINE	<u>\$ 240.00</u>



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## INSPECTION REPORT

INSPECTION DATE & TIME: April 29, 1990  
1:30 am to 6:00 pm

Permittee and/or Operators Name: Genwal Coal Company  
Business Address: P.O. Box 766, Wellington, Utah 84528  
Mine Name: Wellington Prep Plant Permit Number: ACT/007/012  
Type of Mining Activity: Underground Surface OtherXX  
County: Carbon  
Company Official (s): Candy Manzanares  
State Official(s): David W. Darby  
Partial: XX Complete:          Date of Last Inspection: March 14, 1991  
Weather Conditions: Cold, clear  
Acreage: Permitted 1720 Disturbed 356 Regraded 1.5 Seeded 1.5 Bonded 469  
Enforcement Action: None

### COMPLIANCE WITH PERMITS AND PERFORMANCE STANDARDS

	YES	NO	N/A	COMMENTS
1. PERMITS	(X)	( )	( )	(X)
2. SIGNS AND MARKERS	(X)	( )	( )	( )
3. TOPSOIL	(X)	( )	( )	( )
4. HYDROLOGIC BALANCE:				
a. STREAM CHANNEL DIVERSIONS	(X)	( )	( )	( )
b. DIVERSIONS	(X)	( )	( )	( )
c. SEDIMENT PONDS AND IMPOUNDMENTS	(X)	( )	( )	(X)
d. OTHER SEDIMENT CONTROL MEASURES	(X)	( )	( )	( )
e. SURFACE AND GROUNDWATER MONITORING	( )	( )	( )	( )
f. EFFLUENT LIMITATIONS	(X)	( )	( )	(X)
5. EXPLOSIVES	( )	( )	(X)	( )
6. DISPOSAL OF DEVELOPMENT WASTE & SPOIL	(X)	( )	( )	( )
7. COAL PROCESSING WASTE	(X)	( )	( )	( )
8. NONCOAL WASTE	(X)	( )	( )	( )
9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES	(X)	( )	( )	( )
10. SLIDES AND OTHER DAMAGE	(X)	( )	( )	( )
11. CONTEMPORANEOUS RECLAMATION	(X)	( )	( )	( )
12. BACKFILLING AND GRADING	(X)	( )	( )	( )
13. REVEGETATION	(X)	( )	( )	( )
14. SUBSIDENCE CONTROL	(X)	( )	( )	(X)
15. CESSATION OF OPERATIONS	(X)	( )	( )	( )
16. ROADS				
a. CONSTRUCTION	(X)	( )	( )	( )
b. DRAINAGE CONTROLS	(X)	( )	( )	( )
c. SURFACING	(X)	( )	( )	( )
d. MAINTENANCE	(X)	( )	( )	( )
17. OTHER TRANSPORTATION FACILITIES	(X)	( )	( )	( )
18. SUPPORT FACILITIES UTILITY INSTALLATIONS	(X)	( )	( )	( )

## INSPECTION REPORT

(continuation sheet)

Page 2 of 2

PERMIT NUMBER: ACT/007/012

DATE OF INSPECTION: 04-29-91

(Comments are Numbered to Correspond with Topics Listed Above)

### 1. Permit

The Division has been actively working with Genwal Coal Company, a subsidiary of NEICO, toward completing stipulation UMC 788.14-(1)-SCL which requires submittal of information according to a specific schedule. A letter sent to Genwal Coal Company extended the date to submit reclamation designs and bond calculations to March 1, 1991.

In a letter dated February 26, 1991 Genwal Coal Company, through their consultant, Patrick Collins requested a delay in the submittal of the reclamation plan due to the time required to generate new base maps. A new schedule was submitted on March 25, 1991 which establishes that the aerial survey will be conducted by May 1, 1991; baseline maps for project use will be prepared by July 1, 1991; submittal of Operation and Reclamation Plan by September 1, 1991; and Submittal of updated reclamation designs, maps and bond calculations by December 1, 1991.

On April 25, 1991 the Division received plans from Genwal Coal Company, through Patrick Collins, requesting a permit amendment for a project designed to determine feasibility for removing slurry fines at the prep plant. This plan is currently being reviewed by the Division staff.

### 4. Hydrologic Balance

#### b. Diversions

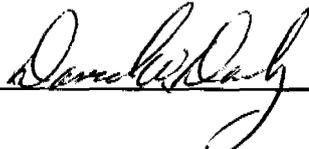
All disturbed and undisturbed diversions, berms and culverts were checked for integrity. They all appeared intact and capable of conveying the design flows.

c. The embankments of the sedimentation ponds and tailings pond were checked for integrity. All appeared intact with no erosion or structural defects.

Copy of this Report:

Mailed to: Candy Manzanares, CVR; Brian Smith, OSM

Given to: Joe Helfrich, DOGM; Darron Haddock DOGM

Inspectors Signature & Number:  # 18

Date: 05-03-91