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# 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

December 7, 1990

CERTIFIED RETURN RECEIPT

P 074 978 807

Mr. David W. Anderson, P.E.  
Intermountain Power Agency  
Department of Water and Power  
City of Los Angeles  
Room 1164, 111 North Hope Street  
Los Angeles, California 90012

Dear Mr. Anderson:

Re: Proposed Assessment for State Violation No. N90-35-2-1,  
Horse Canyon, ACT/007/013, Folder #5, Carbon County, Utah

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

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Susan White on November 20, 1990. 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 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,

*Joseph C. Helfrich*  
for Joseph C. Helfrich  
Assessment Officer

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

COMPANY/MINE Intermountain Power Agency/Horse Canyon NOV # 90-35-2-1

PERMIT # ACT/007/013 VIOLATION 1 OF 1

ASSESSMENT DATE 12/7/90 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 12/7/90 EFFECTIVE ONE YEAR TO DATE 12/7/89

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____

1 point for each past violation, up to on year;  
5 points for each past violation in a CO, up to one year;  
No pending notices shall be counted.

TOTAL HISTORY POINTS \_\_\_\_\_

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?  
Unauthorized activities outside the permit area.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? The event did occur

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector statement revealed that during demolition activities the conveyor dropped into Horse Creek. Equipment subsequently operated outside the disturbed area to retrieve the conveyor.

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

Extent of damage was minimal

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 Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The operator was aware of the disturbed area boundary markers and should have obtained approval from the Division before conducting mining activities outside these defined boundaries.

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 \_\_\_\_ - \_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

The inspector statement revealed that compliance with the abatement requirements of the Notice of Violation were completed within the abatement period required; thus 0 points are assigned.

V. ASSESSMENT SUMMARY FOR N90-35-2-1

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>33</u>
	TOTAL ASSESSED FINE	<u>\$ 460.00</u>