



0036

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining


Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dianne R. Nielson, Ph.D., Division Director

4241 State Office Building · Salt Lake City, UT 84114 · 801-533-5771

September 6, 1984

CERTIFIED RETURN RECEIPT REQUESTED
P 402 457 401

Mr. Dan Guy
Beaver Creek Coal Company
P. O. Box 1378
Price, Utah 84501

Dear Mr. Guy:

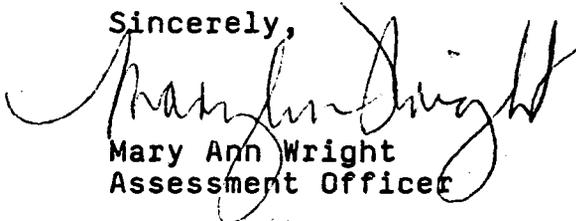
RE: Proposed Assessment for State Violation No. N84-6-7-1, # 1 of 1,
ACT/007/016, Folder #8, Carbon County, Utah

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 June 15, 1984. 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 Mr. Lorin Nielsen, Assessment Officer, 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.

Sincerely,


Mary Ann Wright
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 Beaver Creek/Gordon Ck #2 NOV # N84-6-7-1
 PERMIT # ACT/007/016 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 <u>September 4, 1984</u> | | | EFFECTIVE ONE YEAR DATE <u>September 5, 1984</u> | | |
|--|-----------------|----------|--|----------|-----|
| PREVIOUS VIOLATIONS | EFF.DATE | PTS | PREVIOUS VIOLATIONS | EFF.DATE | PTS |
| <u>N83-6-13-1</u> PA | <u>12-20-84</u> | | | | |
| <u>N83-6-8-2</u> | <u>1-19-84</u> | <u>2</u> | | | |
| <u>N84-6-3-1</u> | <u>8-06-84</u> | <u>1</u> | | | |
| <u>N84-6-5-1</u> PA | <u>7-06-84</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 3

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? Environmental Harm/Water Pollution
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 17

PROVIDE AN EXPLANATION OF POINTS Backhoe deposited fill material directly into perennial stream. Events have occurred according to information provided in inspector's statement.

3. Would or did the damage or impact remain within the exploration or permit area? no

| | 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 20

PROVIDE AN EXPLANATION OF POINTS Damage extended off site per inspector. Fill material deposited directly into perennial stream.

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) 37

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 15

PROVIDE AN EXPLANATION OF POINTS Per inspector, operator was performing required improvements on sediment pond but was using unsound construction practices by working backhoe and trucks at and in the water.

