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STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

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

File

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

July 6, 1984

P402 457 314
CERTIFIED RETURN RECEIPT REQUESTED

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

RE: Proposed Assessment for State Violation No. N84-6-5-1,
ACT/007/016, Folder #8, Carbon County, Utah.

Dear Mr. Guy:

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, Ken Wyatt, on April 17, 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
Mary Ann Wright
Assessment Officer

MAW/re

cc: J. Merriman, OSM Albuquerque Field Office

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 25

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, water was being discharged at the approximate rate of 10-12 gallons/minute for several months prior to the date of issuance. Discharge was into a 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) 45

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 Operator knew there was a problem but did not act until NOV was issued, according to inspector's statement.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

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)

*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 SITUATION

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)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS Good Faith cannot be assessed at this time, since to my knowledge, the NOV has not been terminated yet. The abatement deadline was set for April 27, 1984, extended 10 days, extended again to May 18, and a third time to July 1, 1984. Noncomplaint effluent will continue to be released until full abatement has occurred. Inspector's statement indicates a lack of priority to abate NOV.

V. ASSESSMENT SUMMARY FOR N84-6-5-1

- I. TOTAL HISTORY POINTS 2
- II. TOTAL SERIOUSNESS POINTS 45
- III. TOTAL NEGLIGENCE POINTS 15
- IV. TOTAL GOOD FAITH POINTS _____

TOTAL ASSESSED POINTS 62

TOTAL ASSESSED FINE \$1540.00

Mary Ann Wright

ASSESSMENT DATE July 7, 1984 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT