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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

March 26, 1984

P492 430 066
CERTIFIED RETURN RECEIPT REQUESTED

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

RE: Proposed Assessment for State
Violation No. ~~N84-6-3-1~~
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 Barton Kale on February 22, 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 Nielson, 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

MAW/re

cc: J. Merriman, OSM Albuquerque Field Office

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

COMPANY/MINE Beaver Creek/Gordon Creek #2 NOV # N84-6-3-1

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 3-26-84 EFFECTIVE ONE YEAR DATE 3-27-83

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N83-6-8-2</u>	<u>1-19-84</u>	<u>2</u>			
<u>N82-2-13-1</u>	<u>2-4-83</u>	<u>0</u>			
<u>N82-7-3-1</u>	<u>2-4-83</u>	<u>0</u>			
<u>N83-6-13-1</u>	<u>pending</u>	<u>0</u>	<u>(Proposed Assessment on 12-30-83)</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 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? 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 15

PROVIDE AN EXPLANATION OF POINTS As per inspector's statement dredging in an undisturbed drainage took place while water was flowing in the stream. The amount of material dredged amounts to "a couple of pickup loads worth".

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 9

PROVIDE AN EXPLANATION OF POINTS The amount of dredged material was "about a couple of pickup loads worth" as per inspector statement. Some amount of this dredged material was washed downstream by flowing water, although most water was apparently frozen.

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) 24

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 This NOV occurred due to apparent employee indifference to the regulations, according to the inspector statement.

However, the acts of all persons working onsite are attributable to the operator. Points are assessed upward for indifference or lack of reasonable care on the part of the foreman in not consulting with environmental staff prior to engaging a contractor.

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)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS Good faith cannot be assessed at this time since, to my knowledge, abatement has not occurred.

V. ASSESSMENT SUMMARY FOR N84-6-3-1

I. TOTAL HISTORY POINTS	<u>2</u>
II. TOTAL SERIOUSNESS POINTS	<u>24</u>
III. TOTAL NEGLIGENCE POINTS	<u>15</u>
IV. TOTAL GOOD FAITH POINTS	<u> </u>

TOTAL ASSESSED POINTS 41

TOTAL ASSESSED FINE \$640

Mary Ann Wright

ASSESSMENT DATE 3-26-84 ASSESSMENT OFFICER Mary Ann Wright

X INITIAL ASSESSMENT FINAL ASSESSMENT