



0014

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

September 3, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 402 457 728

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

Dear Mr. Guy:

RE: Proposed Assessment for State Violation No. N85-8-11-1 ,
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 Tom Wright, August 8, 1985. 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 Ms. Jan Brown, 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. This assessment does not constitute a request for payment.

Sincerely,

Mike Earl
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 Creek NOV # N85-8-11-1
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 8-30-85 EFFECTIVE ONE YEAR DATE 8-31-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-6-5-1</u>	<u>11-15-84</u>	<u>1</u>	<u>N83-6-13-1</u>	<u>12-23-84</u>	<u>1</u>
<u>N84-6-7-1</u>	<u>11-12-84</u>	<u>1</u>	<u>N84-8-4-1 PA</u>	<u>7-30-85</u>	<u>0</u>
<u>N84-6-13-1</u>	<u>5-1-85</u>	<u>1</u>	<u>N85-8-5-1 PA</u>	<u>6-21-85</u>	<u>0</u>
<u>N84-6-6-5</u>	<u>12-29-84</u>	<u>4</u>	<u>N85-8-2-1 PA</u>	<u>6-20-85</u>	<u>0</u>
<u>C85-8-2-1 PA</u>	<u>6-21-85</u>	<u>0</u>	<u>N85-8-6-1 PA</u>	<u>6-25-85</u>	<u>0</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 8

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 18

PROVIDE AN EXPLANATION OF POINTS Per inspector statement water from two unauthorized flows to the sediment pond resulted in the pond reaching capacity and discharging into Bryner Canyon. Inspector estimated that the discharge was at a significant rate and could have reached the Beaver Creek system if not discovered.

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? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Operator was given until August 15, 1985 to abate. NOV was terminated effective August 14, 1985.

V. ASSESSMENT SUMMARY FOR N 85-8-11-1

I. TOTAL HISTORY POINTS	<u>8</u>
II. TOTAL SERIOUSNESS POINTS	<u>36</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>52</u>
 TOTAL ASSESSED FINE	 <u>\$ 1080</u>

Mike Earl

ASSESSMENT DATE 8-30-85 ASSESSMENT OFFICER Mike Earl

8-30-85 PROPOSED ASSESSMENT _____ FINAL ASSESSMENT