



0034

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

File

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

July 3, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 402 457 694

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

Dear Mr. Guy:

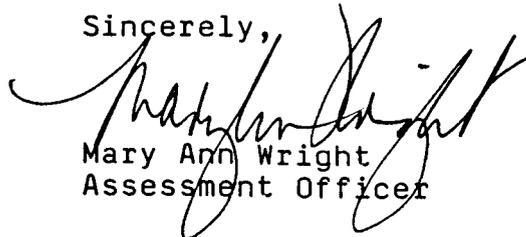
RE: Proposed Assessments for State Violation Nos. C85-8-2-1, N85-8-2-1, N85-8-6-1, N85-8-5-1, ACT/007/016, Folder #8, Carbon County, Utah

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. These violations were issued by Division Inspector Tom Wright, C85-8-2-1 on June 4, 1985, N85-8-2-1 on January 15, 1985, N85-8-5-1 on March 27, 1985 and N85-8-6-1 on April 16, 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,


Mary Ann Wright
Assessment Officer

re
Enclosure
cc: D. Griffin, OSM Albuquerque Field Office
73140

WORKSHEET FOR ASSESSMENT OF CESSATION ORDERS
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Beaver Creek/Gordon Creek CO # C85-8-2-1

PERMIT # ACT/007/016 VIOLATION 1 OF 1

INSPECTOR Tom Wright DATE ISSUED June 4, 1985

NATURE OF THE CESSATION ORDER: Failure to abate N85-8-5-1

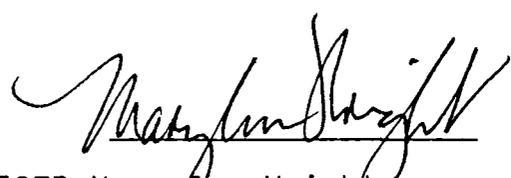
DATE OF ABATEMENT OF CESSATION ORDER: June 6, 1985

DATE OF RECEIPT OF CESSATION ORDER: June 6, 1985

LIST THE DAYS OF FAILURE TO ABATE: June 6, 1985

TOTAL NUMBER OF DAYS OF FAILURE TO ABATE: One (1)

NUMBER OF DAYS X \$750/DAY = TOTAL ASSESSED FINE: \$750.00



ASSESSMENT DATE June 21, 1985 ASSESSMENT OFFICER Mary Ann Wright

ASSESSMENT X PROPOSED ASSESSMENT FINAL

69760

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

COMPANY/MINE Beaver Creek/Gordon Creek NOV # N85-8-5-1

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 June 21, 1985 EFFECTIVE ONE YEAR DATE June 22, 1984

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-6-3-1</u>	<u>8-7-84</u>	<u>1</u>	<u>N83-6-13-1</u>	<u>12-23-84</u>	<u>1</u>
<u>N84-6-5-1</u>	<u>11-15-84</u>	<u>1</u>	<u>N84-8-4-1</u>	<u>5-29-85</u>	<u>PA</u>
<u>N84-6-7-1</u>	<u>11-12-84</u>	<u>1</u>	<u>N85-8-5-1</u>		
<u>N84-6-13-1</u>	<u>5-1-85</u>	<u>1</u>	<u>N85-8-2-1</u>		
<u>N84-6-6-5</u>	<u>12-29-84</u>	<u>4</u>	<u>N85-8-6-1</u>		
<u>C85-8-2-1</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 9

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 12

PROVIDE AN EXPLANATION OF POINTS Per inspector, two undisturbed drainage ditches received coal debris and fines, one from deposition of contaminated snow. Fines will likely reach the stream by runoff. Assessed as likely to cause the listed event.

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 13

PROVIDE AN EXPLANATION OF POINTS Per inspector the deposition of fines covered at least a 100 foot length of the ditch. The second site had snow with coal deposited in it. Although fines are expected to reach the stream, it is not a fishery.

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) 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.

	RANGE	MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
 ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS Per inspector, operator contends that coal fine are all wind blown. Inspector noted fines up to 1/8 inches diameter.

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

COMPANY/MINE Beaver Creek/Gordon Creek NOV # N85-8-2-1

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 June 21, 1985 EFFECTIVE ONE YEAR DATE June 22, 1985

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-6-3-1</u>	<u>8-7-84</u>	<u>1</u>	<u>N83-6-13-1</u>	<u>12-23-84</u>	<u>1</u>
<u>N84-6-5-1</u>	<u>11-15-84</u>	<u>1</u>	<u>N84-8-4-1</u>	<u>PA</u>	<u>5-29-85</u>
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<u>C85-8-2-1</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 9

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? Hindrance

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? _____
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 _____

PROVIDE AN EXPLANATION OF POINTS _____

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 _____

PROVIDE AN EXPLANATION OF POINTS _____

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Potential

	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 6

PROVIDE AN EXPLANATION OF POINTS The operators failure to provide elk herd monitoring data has potentially hindered DOGM from knowing if any changes in herd migrations and habits have occurred in the locale of the mine. Has not hindered the entire inspection.

TOTAL SERIOUSNESS POINTS (A or B) 6

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.

	RANGE	MID-POINT
No Negligence	0	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, the operator was aware of permit stipulation deadlines.

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

COMPANY/MINE Beaver Creek/Gordon Creek NOV # N85-8-6-1

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 June 21, 1985 EFFECTIVE ONE YEAR DATE June 22, 1984

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
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<u>N84-6-7-1</u>	<u>11-12-84</u>	<u>1</u>	<u>N85-8-5-1</u>		
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<u>C85-8-2-1</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 9

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

- What is the event which the violated standard was designed to prevent? Water pollution
- 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 7

PROVIDE AN EXPLANATION OF POINTS Per inspector, debris from the beltline and drainage ditch would bypass sediment controls and sediment could be washed through culverts into undisturbed bypass below. It could then be transported into the undisturbed diversion and possibly past the permit area into perennial stream. No information given on distance to stream, quality of stream or amount of sediment or coal debris. Assessed as unlikely to cause water pollution and at midpoint for lack of information.

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

	<u>RANGE</u>	<u>MID-POINT</u>
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 Per inspector, precipitation could cause washing of debris off site. No damage documented in inspector's statement.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

	<u>RANGE</u>	<u>MID-POINT</u>
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) 16

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.

		<u>MID-POINT</u>
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
ASSIGN NEGLIGENCE POINTS 7

PROVIDE AN EXPLANATION OF POINTS Failure to maintain the area properly.

