

File



0067  
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

January 14, 1985

CERTIFIED RETURN RECEIPT REQUESTED  
P 402 456 985

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

Dear Mr. Guy:

RE: Proposed Assessment for State Violation No. N84-6-13-1,  
ACT/007/015, 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 September 18, 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 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. This assessment does not constitute a request for payment.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mary Ann Wright'.

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/G.C. #2 NOV # N84-6-13-1  
 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 12-24-84 EFFECTIVE ONE YEAR DATE 12-25-83

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<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>N84-6-7-1</u>	<u>11/12/84</u>	<u>1</u>			
<u>N84-6-3-1</u>	<u>8-6-84</u>	<u>1</u>			
<u>N83-6-5-1</u>	<u>1-19-84</u>	<u>2</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 6

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
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 16

PROVIDE AN EXPLANATION OF POINTS Coal fines and hydraulic fluid were hosed down off cement pad and extended down undisturbed drainage. Harm to the soil occurred.

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 15

PROVIDE AN EXPLANATION OF POINTS Damage extended off permit area. Duration unknown. Oil (hydraulic fluid) and coal fines were washed off cement pad onto undisturbed area. Total extent of damage is actually unknown. Damage occurred to soil and may have affected drainage down canyon from the site.

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) 31

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.

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

STATE DEGREE OF NEGLIGENCE Negligence      ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, operator maintains that plans for the conveyor were approved by DOGM. However, operator should be aware by now of requirements on uncontrolled runoff, especially of fines and contaminants.

