

0016



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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July 29, 1997

CERTIFIED RETURN RECEIPT
P 074 977 283

Paige B. Beville, Manager
ARCO Coal Company
555 17th Street, Room 2170
Denver, CO 80202

Re: Proposed Assessment for State Violation No. N-97-47-1-1, Mountain Coal Company, Gordon Creek #2, #7, & #8, ACT/007/016, Folder #5, Carbon County, Utah

Dear Ms. Beville:

The undersigned has been appointed by the Division of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector David W. Darby, on July 3, 1997. Rule R645-401-600 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 fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If

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ACT/007/016
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you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Pamela Grubaugh-Littig
Assessment Officer

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Enclosure

cc: James Fulton, OSM
Vicki Bailey, DOGM

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS, & MINING

COMPANY/MINE Mountain Coal Co./Gordon Creek #2, #7, & #8 NOV# N-97-47-1-1

PERMIT ACT/007/016 VIOLATION 1 OF 1

ASSESSMENT DATE 7/29/97 ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 POINTS

- A. Are there previous violations, which are not pending or vacated, which fall within 1 year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N-96-47-1-1</u>	<u>01/15/97</u>	<u>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 1

II. SERIOUSNESS (EITHER A OR B)

NOTE: For assignment of points in Parts II and III, the following apply:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the point up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? A

A. EVENT VIOLATION MAX 45 POINTS

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?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

Short circuiting of runoff occurred through the sedimentation ponds and into a sinkhole at the bottom of the lower pond. The water then followed the channel for about 200 feet before it resurfaced in the channel.

3. What is the extent of actual or potential damage? RANGE 0-25

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 5

PROVIDE AN EXPLANATION OF POINTS:

The inspector noted that at the time of the inspection water leaving the site was clear. Several storms, however, had occurred and there was potential for sediment.

B. HINDRANCE VIOLATION MAX 25 POINTS

1. Is this a potential or actual hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A OR B) 25

III. NEGLIGENCE MAX 30 POINTS

- 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--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

Failure of this structure had not been noticed until this event.

IV. GOOD FAITH MAX 20 POINTS

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- 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)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occurring the 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?

IN SO--DIFFICULT ABATEMENT

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 of the plan submitted for abatement was

incomplete)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Easy

ASSIGN GOOD FAITH POINTS 0

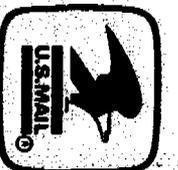
PROVIDE AN EXPLANATION OF POINTS:

This violation has not been abated to date.

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION	<u>N-97-46-5-1</u>
I. TOTAL HISTORY POINTS:	<u>1</u>
II. TOTAL SERIOUSNESS POINTS:	<u>25</u>
III. TOTAL NEGLIGENCE POINTS:	<u>8</u>
IV. TOTAL GOOD FAITH POINTS:	<u>0</u>
TOTAL ASSESSED POINTS:	<u>34</u>
TOTAL ASSESSED FINE:	<u>\$480.00</u>

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



PENALTY FOR PRIVATE USE, \$300

SENDER INSTRUCTIONS
Print your name, address and ZIP Code in the space below.
• Complete items 1, 2, 3, and 4 on the reverse.
• Attach to front of article if space permits, otherwise affix to back of article.
• Endorse article "Return Receipt Requested" adjacent to number.

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

DIVISION

OF
OIL GAS & MINING
1594 W NORTH TEMPLE STE 1210
BOX 145801
SALT LAKE CITY UT 84114-5801

3. Article Addressed to:
PATG BEVILLE
ARCO COAL CO
555 17TH ST RM 2170
DENVER CO 80202

4. Article Number
P 074 977 253

Type of Service:
 Registered
 Certified
 Insured
 COD
 Return Receipt for Merchandise
 Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature — Address
X

6. Signature — Agent
X *[Signature]*

7. Date of Delivery
8/4/97

US Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-965 DOMESTIC RETURN RECEIPT

PS Form 3800, June 1985 **DT DOGM ACT/007/016 N-97-47-1-1**

7/30/97

Postmark or Date	Return Receipt showing to whom and Date Delivered	Restricted Delivery Fee	Certified Fee	Postage	P.O. State and ZIP Code	Street and No.	Sent to
	Return Receipt showing to whom and Date Delivered	Special Delivery Fee			555 17TH ST RM 2170	ARCO COAL CO	PATG BEVILLE
TOTAL Postage and Fees	Date, and Address of Deliverer				DENVER CO 80202		

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
RECEIPT FOR CERTIFIED MAIL
P 074 977 253

(See Reverse)

- STICK POSTAGE STAMPS TO COVER FIRST CLASS POSTAGE.
CERTIFIED MAIL FEE, AIR CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see form)
- If you want this receipt postmarked, stick the gummed strip to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your mail carrier. (no extra charge)
 - If you do not want this receipt postmarked, stick the gummed strip to the right of the return address at that office, date, detach and retain the receipt, and mail the article.
 - If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed cross if space permits. Otherwise, affix to back of article. Emboss front of article RETURN RECEIPT REQUESTED adjacent to the number.
 - If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse "RESTRICTED DELIVERY" on the front of the article.
 - Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
 - Save this receipt and present it if you make inquiry.
- U.S.G.P.O. 1988-27-1-32