0035

File

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 11, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 402 456 988

North American Equities
Blazon Mine
Suite 1401 Seventeenth Street
Denver, Colorado 80202

Gentlemen:

RE: Proposed Assessment for State Violation No.N84-2-10-3
ACT/007/021, 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 Sandy Pruitt on June 25, 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 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,

Mary Ann Wright

Mary Ann Wright
Assessment Officer

wj
Enclosure
cc: D. Griffin, OSM Albuquerque Field Office
7314Q

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SUMMARY OF PROPOSED ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING
355 West North Temple 3 Triad Center Suite 350
Salt Lake City,Utah 84180-1203
801-538-5340

COMPANY/MINE BLAZON CO./BLAZON #1 NOV # N84-2-10-3

PERMIT # ACT/007/021

VIOLATION			AMOUNT
1	OF	3	$110
2	OF	3	440
3	OF	3	300
	OF		
	OF		
	OF		
	OF		
	OF		
	OF		
	OF		

TOTAL ASSESSED FINE $ 850.

6976-13

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

COMPANY/MINE BLAZON CO./BLAZON #1 NOV # N84-2-10-3

PERMIT # ACT/007/021 VIOLATION 1 OF 3

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 12-28-84 EFFECTIVE ONE YEAR DATE 12-29-83

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N83-5-10-1	4-29-84	1			
N83-2-13-1	4-29-84	1			

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? Environmmental Harm/Loss of Reclamation/revegetation potential.

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 2

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, some material had washed down from this small stockpile into the sediment pond. Some coal fines have mixed with the soil on one side. The pile is approximately 3 ft. high by 6 ft. diameter. Assessed as insignificant.

3. Would or did the damage or impact remain within the exploration or permit area? Yes

	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 2

PROVIDE AN EXPLANATION OF POINTS Damage remained on site. Assessed down for low degree of damage.

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) 4

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.

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

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS Assessed as ordinary negligence. Two other stockpiles have the necessary erosion controls. This small one was apparently overlooked.

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? Difficult ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Materials had to be brought in from offsite to abate NOV. Assessed as extended compliance.

V. ASSESSMENT SUMMARY FOR N84-2-10-3 #1

I. TOTAL HISTORY POINTS	2
II. TOTAL SERIOUSNESS POINTS	4
III. TOTAL NEGLIGENCE POINTS	5
IV. TOTAL GOOD FAITH POINTS	0
TOTAL ASSESSED POINTS	11
TOTAL ASSESSED FINE	$110

Maray Ann Wright

ASSESSMENT DATE 12--28-84 ASSESSMENT OFFICER Maray Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

7313Q

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

COMPANY/MINE BLAZON CO./BLAZON #1 NOV # N84-2-10-3

PERMIT # ACT/007/021 VIOLATION 2 OF 3

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 12-28-84 EFFECTIVE ONE YEAR DATE 12-29-83

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N83-5-10-1	4-29-84	1			
N83-2-13-1	4-29-84	1			

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 13

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, contaminants "may have entered Mud Creek" through breeches in berms and examination has shown that "some flow in the past has occurred." Assessed as likely and up from the mid-point.

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 Duration unknown. Extent of damage is not well defined (see previous statement for probability).

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 22

PROVIDE AN EXPLANATION OF POINTS _____

TOTAL SERIOUSNESS POINTS (A or B) _____

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 8

PROVIDE AN EXPLANATION OF POINTS This inactive site is subject to damage from harsh weather. Routine maintenance is necessary.

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? Difficult ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Equipment had to be brought in from offsite. Extended compliance assessed.

V. ASSESSMENT SUMMARY FOR N84-2-10-3 #2

I. TOTAL HISTORY POINTS	2
II. TOTAL SERIOUSNESS POINTS	22
III. TOTAL NEGLIGENCE POINTS	8
IV. TOTAL GOOD FAITH POINTS	0
TOTAL ASSESSED POINTS	32
TOTAL ASSESSED FINE	$440

Mary Ann Wright

ASSESSMENT DATE 12-28-84 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

7313Q

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

COMPANY/MINE BLAZON CO./BLAZON #1 NOV # N84-2-10-3

PERMIT # ACT/007/021 VIOLATION 3 OF 3

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 12-28-84 EFFECTIVE ONE YEAR DATE 12-29-83

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N83-5-10-1	4-29-84	1			
N83-2-13-1	4-29-84	1			

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 13

PROVIDE AN EXPLANATION OF POINTS It is likely that water pollution has occurred as a result of sediment washing from slumpage and the road into Mud Creek. Erosion is evident along the road.

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 12

PROVIDE AN EXPLANATION OF POINTS Damage in the form of erosion was evident. The erosion has taken place and worsened over a two year period of the mine's inactivity.

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.

No Negligence	0	MID-POINT
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 This inactive site is subject to damage from harsh weather. Routine maintenance is necessary.

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? Difficult ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS Equipment had to be brought to the site to perform abatement work. NOV was abated one week prior to 2 week deadline.

V. ASSESSMENT SUMMARY FOR _____

I. TOTAL HISTORY POINTS	2
II. TOTAL SERIOUSNESS POINTS	25
III. TOTAL NEGLIGENCE POINTS	8
IV. TOTAL GOOD FAITH POINTS	-10
TOTAL ASSESSED POINTS	25
TOTAL ASSESSED FINE	$300

Mary Ann Wright

ASSESSMENT DATE 12-28-84 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

7313Q