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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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September 13, 1990

CERTIFIED RETURN RECEIPT
P 074 978 749

Mr. Adam S. Affleck
North American Equities
c/o Holme, Roberts & Owen
50 South Main Street
Salt Lake City, Utah 84144

Dear Mr. Affleck:

Re: Proposed Assessment for State Violation No. 90-17-2-2,
Blazon #1 Mine, ACT/007/021, Folder #5, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Office 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, Lynn Kunzler on August 14, 1990. 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 fifteen (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 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.

If a timely request is not made, 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,

A handwritten signature in cursive script that reads "Joseph C. Helfrich".

Joseph C. Helfrich
Assessment Officer

jb

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

COMPANY/MINE North American Equities/BlazonNOV # 90-17-2-2PERMIT # ACT/007/021VIOLATION 1 OF 2ASSESSMENT DATE 9/13/90ASSESSMENT OFFICER Joseph C. Helfrich**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 9/13/90EFFECTIVE ONE YEAR TO DATE 9/13/89

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N89-31-3-1</u>	<u>2/2/90</u>	<u>1</u>
<u>N89-17-2-1</u>	<u>2/2/90</u>	<u>1</u>
<u>N90-27-1-1</u>	<u>5/17/90</u>	<u>1</u>
<u>N90-27-2-1</u>	<u>8/8/90</u>	<u>1</u>
<u>N90-27-4-1</u>	<u>8/8/90</u>	<u>1</u>
<u>N90-27-5-1</u>	<u>7/19/90</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 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 Assessment Officer 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? EventA. 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? The event has occurred

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector statement revealed that sediment had built up behind silt fences and straw -bale filters to a point where they were either over-topped or the flow went around the structure. There was also evidence of flow passing through the silt fences.

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 8

PROVIDE AN EXPLANATION OF POINTS

Neither the extent or the duration of damage could be accurately quantified. However, the inspector statement indicated that increased sediment loading of Mud Creek, a perennial stream, had occurred; thus 8 points are assigned.

B. Hindrance Violations MAX 25 PTS

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) 28

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
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

The inspector statement revealed that the operator was informed of the need to perform maintenance on sediment control structures during the previous inspection dated July 11, 1990.

IV. GOOD FAITH MAX 20 PTS.

(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 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

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

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS

This violation resulted in a Failure to Abate Cessation Order #90-17-1-1

V. ASSESSMENT SUMMARY FOR N90-17-2-2 #1 of 2

I.	TOTAL HISTORY POINTS	<u>6</u>
II.	TOTAL SERIOUSNESS POINTS	<u>28</u>
III.	TOTAL NEGLIGENCE POINTS	<u>12</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>46</u>
	TOTAL ASSESSED FINE	<u>\$ 840.00</u>

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

COMPANY/MINE North American Equities/Blazon

NOV # 90-17-2-2

PERMIT # ACT/007/021

VIOLATION 2 OF 2

ASSESSMENT DATE 9/13/90

ASSESSMENT OFFICER Joseph C. Helfrich

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 9/13/90

EFFECTIVE ONE YEAR TO DATE 9/13/89

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N89-31-3-1</u>	<u>2/2/90</u>	<u>1</u>
<u>N89-17-2-1</u>	<u>2/2/90</u>	<u>1</u>
<u>N90-27-1-1</u>	<u>5/17/90</u>	<u>1</u>
<u>N90-27-2-1</u>	<u>8/8/90</u>	<u>1</u>
<u>N90-27-4-1</u>	<u>8/8/90</u>	<u>1</u>
<u>N90-27-5-1</u>	<u>7/19/90</u>	<u>1</u>

1 point for each past violation, up to on 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 Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is than 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?
Damage to Property and Water Pollution

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? _____

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS

The probability of occurrence of damage to property and/or water pollution resulting from the plugged culvert is unlikely; thus 5 points are assigned.

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 8

PROVIDE AN EXPLANATION OF POINTS

The extent of damage resulting from the plugged culvert was minimal; thus 8 points are assigned.

B. Hindrance Violations MAX 25 PTS

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) 13

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
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

The operator was informed of the need to perform maintenance on these structures during the last inspection dated July 11, 1990.

IV. GOOD FAITH MAX 20 PTS.

(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 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

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)
(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

No plans were required. A shovel or backhoe may be needed to clean out the culverts. This equipment is not available on site. The operator complied within the abatement required, achieving normal compliance; thus no good faith points were awarded.

V. ASSESSMENT SUMMARY FOR N90-17-2-2 #2 of 2

I.	TOTAL HISTORY POINTS	<u>6</u> - 4
II.	TOTAL SERIOUSNESS POINTS	<u>13</u> - 4
III.	TOTAL NEGLIGENCE POINTS	<u>12</u> - 20
IV.	TOTAL GOOD FAITH POINTS	<u>0</u> - 20
	TOTAL ASSESSED POINTS	<u>31</u> (16)
	TOTAL ASSESSED FINE	<u>\$ 420.00</u>