



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Norman H. Bangertter  
Governor

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Division Director

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340

September 5, 1990

CERTIFIED RETURN RECEIPT  
P 074 978 737

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's. 90-13-3-1 and 90-13-4-1, North American Equities, Blazon 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 are the proposed civil penalty assessments for the above referenced violations. These violations were issued by Division Inspector, J. Randall Harden on July 26, 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 these proposed assessments, you or your agent may file a written request for an assessment conference to review the proposed penalties.

If a timely request is not made, the proposed penalties will become final, and the penalties 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,

Joseph C. Helfrich  
Assessment Officer

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

COMPANY/MINE North American Equities/Blazon Mine

NOV # 90-13-4-1

PERMIT # ACT/007/021

VIOLATION 1 OF 1

ASSESSMENT DATE 9/5/90

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 9/5/90

EFFECTIVE ONE YEAR TO DATE 9/5/89

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? 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
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

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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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

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B. Hindrance Violations MAX 25 PTS

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

RANGE 0 - 25

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

ASSIGN HINDRANCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

Failing to mitigate the highwall during reclamation actually hindered the inspector from determining whether or not reclamation could be achieved as required by the Utah Coal Mining rules R614-301-553; thus 15 points are assigned.

TOTAL SERIOUSNESS POINTS (A or B) 15

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 15

PROVIDE AN EXPLANATION OF POINTS

Permittee ceased reclamation activities prior to completion of phase I reclamation; thus 15 points are assigned.

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

To be evaluated upon abatement of the violation.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N90-13-4-1</u>
I.	TOTAL HISTORY POINTS	<u>6</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>15</u>
IV.	TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>36</u>
	TOTAL ASSESSED FINE	<u>\$ 520.00</u>

jb  
WMNPAF

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

COMPANY/MINE North American Equities/Blazon Mine NOV # N90-13-3-1

PERMIT # ACT/007/021 VIOLATION 1 OF 1

ASSESSMENT DATE 9/5/90 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 9/5/90 EFFECTIVE ONE YEAR TO DATE 9/5/89

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? Hindrance

A. Event Violations Max 45 PTS

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

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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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

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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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

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B. Hindrance Violations MAX 25 PTS

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

RANGE 0 - 25

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

ASSIGN HINDRANCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

Failing to include cut slopes of the mine access road in a disturbed area boundary and detailing reclamation treatments in the approved MRP for the affected area actually hindered the inspector from determining whether or not compliance could be achieved at this site; thus 12 points are assigned.

TOTAL SERIOUSNESS POINTS (A or B) 12

**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 8

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to adequate identification of affected areas and subsequent reclamation treatments.

**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

To be evaluated upon termination of Notice of Violation.

V. ASSESSMENT SUMMARY FOR N90-13-3-1

I.	TOTAL HISTORY POINTS	<u> 6 </u>
II.	TOTAL SERIOUSNESS POINTS	<u> 12 </u>
III.	TOTAL NEGLIGENCE POINTS	<u> 8 </u>
IV.	TOTAL GOOD FAITH POINTS	<u> 0 </u>
	TOTAL ASSESSED POINTS	<u> 26 </u>
	TOTAL ASSESSED FINE	<u> \$ 320.00 </u>

jb  
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