Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
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Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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

March 4, 1991

CERTIFIED RETURN RECEIPT
P 074 979 028

Mr. Adam S. Affleck
North American Equities
C/O Holme, Roberts and Owen
50 South Main Street, Suite 900
Salt Lake City, Utah 84114

Dear Mr. Affleck:

Re: Proposed Assessment for State Violation No. C91-28-1-1, 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 Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Daron R. Haddock on February 8, 1991. Rule R614-401 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,

Joseph C. Helfrich
Assessment Officer

Enclosure

an equal opportunity employer

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

COMPANY/MINE N American Equities/Blazon #1 CO# C-91-28-1-1

PERMIT # ACT/007/021 VIOLATION 1 OF 1

ASSESSMENT DATE 3/4/91 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 2/4/91 EFFECTIVE ONE YEAR TO DATE 3/4/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-27-4-1	08/08/90	1
N90-27-5-1	07/19/90	1
N90-13-3-1	03/02/91	1
N90-17-2-2 1/2	03/02/91	1
N90-17-2-2 2/2	03/02/91	1
C90-17-1-1	03/02/91	5
N90-17-6-1	03/02/91	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 11

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? 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

_____

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

_____

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 18

PROVIDE AN EXPLANATION OF POINTS

Inspector's statement revealed that NAE had allowed their Irrevocable Letter of Credit to expire on December 31, 1990, which in essence left them without a performance bond for reclamation, thus the inspector was actually hindered.

TOTAL SERIOUSNESS POINTS (A or B) 18

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 Negligence

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the bank which held the Irrevolcable Letter of Credit would not continue it in force since NAE held no other accounts with that financial institution. NAE lacked diligence with respect to obtaining a renewed bond and/or irrevocable letter of credit at another financial institution. Thus, 10 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? __Easy__ **ASSIGN GOOD FAITH POINTS** __0__

PROVIDE AN EXPLANATION OF POINTS

The operator complied within the abatement period required.

V. ASSESSMENT SUMMARY FOR C91-28-1-1

I.	TOTAL HISTORY POINTS	11
II.	TOTAL SERIOUSNESS POINTS	18
III.	TOTAL NEGLIGENCE POINTS	10
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	39
	TOTAL ASSESSED FINE	$ 580.00

jbe