



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

*File*

Norman H. Bangerter, Governor  
Dee C. Hansen, Executive Director  
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355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

November 5, 1985

CERTIFIED RETURN RECEIPT REQUESTED  
P 001 721 224

Mr. Dan Guy  
Beaver Creek Coal Company  
P. O. Box 1378  
Price, Utah 84501

Dear Mr. Dan Guy:

RE: Proposed Assessment for State Violation No.'s N85-8-9-1,  
N85-8-18-1, INA/015/004, Folder #8, Emery 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. These violations was issued by Division Inspector Tom Wright; N85-8-18-1 on October 2, 1985; N85-8-9-1 on June 18, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information 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 Ms. Jan Brown 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 then be considered 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,

*Mike Earl*

Mike Earl  
Assessment Officer

re  
Enclosure  
cc: D. Griffin  
7314Q

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

COMPANY/MINE Beaver Creek Coal/Huntington NOV # N85-8-9-1

PERMIT # INA/G15/004 VIOLATION 1 OF 1

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 10-29-85 EFFECTIVE ONE YEAR DATE 10-30-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
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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					<u>0</u>

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 7

PROVIDE AN EXPLANATION OF POINTS Assessed as unlikely based on inspector statement that due to the plugged culvert and under normal conditions, a large rainfall event would be required for the flow to reach Mill Creek.

3. Would or did the damage or impact remain within the exploration or permit area? No

	<u>RANGE</u>	<u>MID-POINT</u>
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 8

PROVIDE AN EXPLANATION OF POINTS Per inspector if the runoff was large enough it could enter the bypass culvert and leave the area eventually flowing into Mill Creek, which is a tributary of the Huntington River.

B. Hindrance Violations MAX 25 PTS

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

	<u>RANGE</u>	<u>MID-POINT</u>
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) 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.

		<u>MID-POINT</u>
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 Operator of the heavy equipment failed to take care and notice the location of the culvert.



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

COMPANY/MINE Beaver Creek Coal/Huntington #4 NOV # N85-8-18-1

PERMIT # INA/G15/004 VIOLATION 1 OF 1

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 10-29-85 EFFECTIVE ONE YEAR DATE 10-30-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N85-8-9-1 PA</u>	<u>10-29-85</u>	<u>0</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 0

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? 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 15

PROVIDE AN EXPLANATION OF POINTS Assessed as occurred based on inspector statement that the berms around topsoil had breached at two locations.

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 Inspector indicates that all loss would be contained within permit area. Loss of material is slight.

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) 17

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 5

PROVIDE AN EXPLANATION OF POINTS Inspector indicates that the operator had previously been advised to watch the area. Recent rainfall may have caused the breach.

