

**CalMat Co**

P.O. BOX 947, COLTON, CALIFORNIA 92324/(714) 825-4260



May 22, 1987

**RECEIVED**  
MAY 26 1987DIVISION OF  
OIL, GAS & MINING

Dianne R. Nielson  
Director  
State of Utah  
Natural Resources  
Oil, Gas & Mining  
355 West Temple  
3 Triad Center  
Suite 350  
Salt Lake City, UT 84180-1203

Re: Proposed Assessment for State Violation No. N87-11-1-1, Act/015/007,  
Folder 5, Emery County, Utah

Dear Ms. Nielson:

During 1986 we worked diligently with the Division to prepare and receive approval of a reclamation plan for our Hidden Valley property. The plan covers an area of approximately seven acres in Emery County.

Due to favorable weather conditions, the reclamation work was completed in less than three weeks on December 24, 1986. Shortly thereafter, a major storm hit the area with gale force winds of 40 to 50 mph. The newly erected silt fence (installed according to the approved plan) was damaged in several places. This was noticed during a subsequent inspection by our consultants, Jbr. Repairs were not effected during this time period due to inclement weather conditions. Erosion was not likely to occur due to the snow cover, and it was therefore decided to effect repairs in early spring of 1987.

On March 24, 1987, an inspection of the site was made by Henry Austin, OSM, and Bill Malencik, DOGM. A report (ten day notice) was written by Austin and sent to DOGM citing us for the damaged silt fence. Subsequent to the ten day notice, on April 7, 1987, a notice of violation was issued by DOGM to effect repairs by April 30, 1987. These repairs were completed according to recommendations from DOGM personnel by April 30, 1987.

On May 1, 1987, a civil penalty assessment was issued for the above violation in the amount of \$200. Granted, the \$200 fine is not large, but the issue is the principle behind the mechanics of notice of violations and issuance of civil penalties. We, as a company, have worked very hard with your personnel in completing the reclamation work in a timely manner. Our relationship with DOGM personnel has been very favorable, and we expect this to continue.

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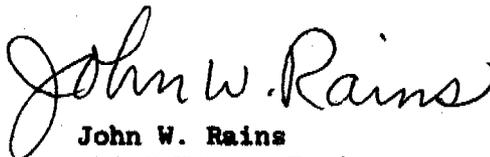
There are several issues that need to be discussed regarding the above. Due to the fact that repairs were completed prior to the April 30, 1987 date, a civil penalty should not have been issued. If a notice of violation was issued and repairs were not completed, then it would be understandable that a civil penalty be assessed. We believe the issuance of our assessed fine is not right, proper or equitable. We have operated in a good faith manner throughout this project and will continue to do so.

Being an out of state owner and not having a representative on site at all times, it is difficult to put together the necessary personnel, equipment, etc. to effect repairs on the reclaimed area. It is very disheartening to read the worksheet for assessment of penalties and the wording used to establish points. As an example, because of mother nature damaging the silt fence, we are considered negligent due to indifference, lack of diligence, or lack of reasonable care. We believe none of the above to be the case in this situation.

It is not cost effective for us to request an assessment conference to review the proposed penalty, but it is requested the \$200 fine be set aside based on the facts presented and the circumstances of the situation.

Thank you for your consideration.

Sincerely,



John W. Rains  
Chief Mining Engineer

JWR/kew

cc: R. E. Evans  
Lowell Braxton, GOGM  
Joseph Helfrich, DOGM  
John Whitehead, DOGM