Betty

0014

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dianne R. Nielson, Ph.D., Division Director

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

August 21, 1984

CERTIFIED RETURN RECEIPT REQUESTED
NO. P 402 457 577

Mr. Allen P. Childs, Engineer
Trail Mountain Coal Company
P. O. Box 370
Orangeville, Utah 84537-0370

Dear Mr. Childs:

Re: Your Letter Dated July 30, 1984 Requesting an Assessment Conference on State Violation No. N84-4-2-1, ACT/015/009, Folder No. 8, Emery County, Utah

This is to advise you that the time limitation for requesting an assessment conference on the above-referenced state violation has not been met in accordance with our March 26, 1984 letter to Trail Mountain Coal Company (a copy of which is attached) regarding the proposed assessment on this violation; therefore, the finalized assessment dated July 9, 1984 remains in effect.

If you have any questions, please don't hesitate to call me.

Sincerely,

Janice T. Brown for

Lorin P. Nielsen
Acting Assessment
Conference Officer

LPN/jb
Attachment
cc: Jodie L. Merriman
Office of Surface Mining
219 Central Avenue, NW
Albuquerque, New Mexico 87102

Mary Ann Wright
Barbara Roberts
98970

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dianne R. Nielson, Ph.D., Division Director

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

March 26, 1984

P 492 430 067
CERTIFIED RETURN RECEIPT REQUESTED

Mr. Allen Childs
Natomas Trail Mountain Coal Company
P.O. Box 551
Orangeville, Utah 84527

RE: Proposed Assessment for State
Violation No. N84-4-2-1
ACT/015/009, Folder #8
Emery County, Utah

Dear Mr. Childs

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. This violation was issued by Division Inspector David Lof on February 2, 1984. 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 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 Mr. Lorin Nielson, Assessment Officer, 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 be considered for the final assessment which were not available on the date of the proposed assessment, due to the length of the abatement period.

Sincerely,

Mary Ann Wright

Mary Ann Wright
Assessment Officer

MAW/re

cc: J. Merriman, OSM Albuquerque Field Office

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

COMPANY/MINE Natomas/Trail Mountain NOV # N84-4-2-1

PERMIT # ACT/015/009 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 3-26-84 EFFECTIVE ONE YEAR DATE 3-27-83

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N83-4-10-1	Pending	PA	12-16-83		
N83-4-12-1	Pending	PA	12-16-83		
PA = Proposed Assessment					

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? 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	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 _____

PROVIDE AN EXPLANATION OF POINTS _____

3. Would or did the damage or impact remain within the exploration or permit area? _____

	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 _____

PROVIDE AN EXPLANATION OF POINTS _____

B. Hindrance Violations MAX 25 PTS

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

	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 4

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, although the wing walls constructed of riprap seemed functionally adequate, the potential of not knowing this for sure existed since riprapped wing walls were not the planned and approved construction. Assessed down from the midpoint since this hindrance did not prevent inspection of the entire operation.

TOTAL SERIOUSNESS POINTS (A or B) 4

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 Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 26

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, four (4) verbal, documented requests over a six month period were made to the operator to submit as-built plans for approval. All notices were apparently ignored until an NOV was issued on 2-2-84. Assessed as knowing conduct and assigned upward from the midpoint.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

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)

*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 SITUATION

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)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS As per inspector's statement, operator complied within the abatement period required.

V. ASSESSMENT SUMMARY FOR N84-4-2-1

I. TOTAL HISTORY POINTS	0
II. TOTAL SERIOUSNESS POINTS	4
III. TOTAL NEGLIGENCE POINTS	26
IV. TOTAL GOOD FAITH POINTS	0

TOTAL ASSESSED POINTS 30

TOTAL ASSESSED FINE $400.

Mary Ann Wright

ASSESSMENT DATE 3-26-84 ASSESSMENT OFFICER Mary Ann Wright

X INITIAL ASSESSMENT _____ FINAL ASSESSMENT