



*File*

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

August 13, 1984

CERTIFIED RETURN RECEIPT REQUESTED  
P 402 457 338

Mr. Allen Childs  
Natomas Trail Mountain Coal Company  
P. O. Box 551  
Orangeville, Utah 84537

Dear Mr. Childs:

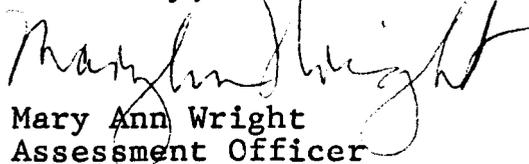
RE: Proposed Assessment for State Violation No. N84-4-6-3,  
#'s 3 of 3, ACT/015/009, Folder #8, Emery County, Utah

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 were issued by Division Inspector David Lof on April 18, 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 Nielsen, 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  
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 # N84-4-6-3  
 PERMIT # ACT/015/009 VIOLATION 1 OF 3

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 August 13, 1984 EFFECTIVE ONE YEAR DATE August 13, 1983

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N83-4-10-1</u>	<u>6-4-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N83-4-12-1</u>	<u>5-17-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N84-4-3-1</u>	<u>5-17-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N84-4-4-1</u>	<u>5-17-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>N84-4-2-1</u>	<u>8-9-84</u>	<u>1</u>	<u>                    </u>	<u>                    </u>	<u>                    </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 5

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? Enviromental harm/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 10

PROVIDE AN EXPLANATION OF POINTS Assessed at the low end of likely since, per inspector's statement, the underdesigned emergency spillway would not be able to safely pass a large precipitation event; severe erosion could occur and pond embankment failure is possible.

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

	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 10

PROVIDE AN EXPLANATION OF POINTS Per inspectors statement, the extent of potential damage could include severe erosion, embankment failure and damage to the adjacent county road. Assessed down from mid-point since actual damage is low.

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) 20

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 15

PROVIDE AN EXPLANATION OF POINTS Assessed as a lack of diligence or reasonable care in not following approved pond design. Assessed upward since a RPE certified it to be in compliance with approved plans. A professional engineer should have noted the difference between as-built and the approved plans.



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

COMPANY/MINE Natomas/Trail Mountain NOV # N84-4-6-3  
 PERMIT # ACT/015/009 VIOLATION 2 OF 3

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 August 13, 1984 EFFECTIVE ONE YEAR DATE August 14, 1983

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
<u>N83-4-10-1</u>	<u>6-4-84</u>	<u>1</u>			
<u>N83-4-12-1</u>	<u>5-17-84</u>	<u>1</u>			
<u>N84-4-3-1</u>	<u>5-17-84</u>	<u>1</u>			
<u>N84-4-4-1</u>	<u>5-17-84</u>	<u>1</u>			
<u>N84-4-2-1</u>	<u>8-9-84</u>	<u>1</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 5

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 8

PROVIDE AN EXPLANATION OF POINTS Assessed at the high end of unlikely to cause water pollution, per inspectors statement, an improper dewatering device would not allow for the proper detention and settling of large storm events. Pond was nearly dry at time of inspection. Improperly settled water would spill into nearby creek which leads to a high quality fish stream.

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

	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 8

PROVIDE AN EXPLANATION OF POINTS Damage would extend offsite. No damage had occurred, assessed downward. Potential damage would include the adjacent stream which leads within several miles to a fishery stream.

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) 16

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 17

PROVIDE AN EXPLANATION OF POINTS Operator had been given verbal notice to fix dewatering device one month earlier. Documented in inspection report. Lack of action was knowing conduct.

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)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Operator complied within required abatement period

V. ASSESSMENT SUMMARY FOR N84-4-6-3, #2 of 3

I. TOTAL HISTORY POINTS	<u>5</u>
II. TOTAL SERIOUSNESS POINTS	<u>16</u>
III. TOTAL NEGLIGENCE POINTS	<u>17</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 38

TOTAL ASSESSED FINE \$ 560.00

Mary Ann Wright

ASSESSMENT DATE August 13, 1984 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT \_\_\_\_\_ FINAL ASSESSMENT



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? Actual

	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 14

PROVIDE AN EXPLANATION OF POINTS Because sediment pond inspections had not been documented, inspector was hindered from determining if there were problems with the ponds based on the operators inspection reports. Assessed down since it did not hinderyinspection.

entire TOTAL SERIOUSNESS POINTS (A or B) 14

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 30

PROVIDE AN EXPLANATION OF POINTS Assessed as knowing conduct. On January 27, 1984, N84-4-4-1 was issued for the same reason of not documenting pond inspections.

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)

EASY OR DIFFICULT ABATEMENT? easy ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS NOV was abated within abatement period required.

V. ASSESSMENT SUMMARY FOR N84-4-6-3, #3 of 3

I. TOTAL HISTORY POINTS	<u>5</u>
II. TOTAL SERIOUSNESS POINTS	<u>14</u>
III. TOTAL NEGLIGENCE POINTS	<u>30</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 49

TOTAL ASSESSED FINE \$ 960.00

*Mary Ann Wright*

ASSESSMENT DATE August 13, 1984 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT

FINAL ASSESSMENT