

0021



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

File

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
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March 1, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 402 457 364

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

Dear Mr. Childs:

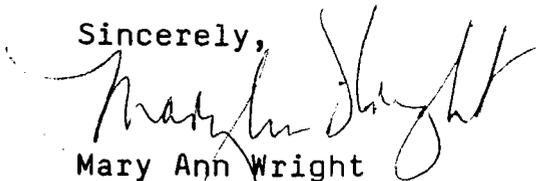
RE: Proposed Assessment for State Violation No. N84-4-12-2,
ACT/015/009, Folder #8, Emery County, Utah Utah

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. This violation was issued by Division Inspector David Lof, on August 31, 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. This assessment does not constitute a request for payment.

Sincerely,


Mary Ann Wright
Assessment Officer

re
Enclosure
cc: D. Griffin, OSM Albuquerque Field Office
73140

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

COMPANY/MINE Natomas/Trail Mountain NOV # N84-4-12-2
PERMIT # ACT/015/009 VIOLATION 1 OF 2

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 2-27-85 EFFECTIVE ONE YEAR DATE 2-28-84

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>N84-4-2-1</u>	<u>8-9-84</u>	<u>1</u>
<u>N84-4-12-1</u>	<u>5-17-84</u>	<u>1</u>	<u>N84-4-6-3</u>	<u>10-25-84</u>	<u>3</u>
<u>N83-4-13-1</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>			

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 8

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 16

PROVIDE AN EXPLANATION OF POINTS Assessed as occurred. Nonsettled water moved quickly through the pond and into the creek. The TSS measurement was 1480 mg/l flowing at a rate of 200 gpm.

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 17

PROVIDE AN EXPLANATION OF POINTS Damage extended offsite to the creek which leads to a fishery. Extent of damage was the flow of 1480 mg/l water into the creek at an approximate rate of 200 gpm. Duration was not longer than 1 week or less than 4 hours. Assessed upward for damage.

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) 33

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.

	RANGE	MID-POINT
No Negligence	0	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 Dewatering spillway valve was locked open. This is an intentional action of which the actual intentions are not known. Assessed at the high end of negligence bordering on greater degree of fault. Work had been taking place on repairing spillway device leak (N84-4-10-1).

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? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Abatement required was to immediately close the dewatering device. Per inspector, good faith is not warranted in this case.

V. ASSESSMENT SUMMARY FOR N84-4-12-2, #1

I. TOTAL HISTORY POINTS	<u>8</u>
II. TOTAL SERIOUSNESS POINTS	<u>33</u>
III. TOTAL NEGLIGENCE POINTS	<u>15</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>56</u>
 TOTAL ASSESSED FINE	 <u>\$1220</u>

Mary Ann Wright

ASSESSMENT DATE 2-27-85 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

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

COMPANY/MINE Natomas/Trail Mountain NOV # N84-4-12-2
PERMIT # ACT/015/009 VIOLATION 2 OF 2

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 2/27/85 EFFECTIVE ONE YEAR DATE 2/28/84

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>N84-4-2-1</u>	<u>8-9-84</u>	<u>1</u>
<u>N84-4-12-1</u>	<u>5-17-84</u>	<u>1</u>	<u>N84-4-6-3</u>	<u>10-25-84</u>	<u>3</u>
<u>N83-4-13-1</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>			

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 8

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

- What is the event which the violated standard was designed to prevent? water pollution
- 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 16

PROVIDE AN EXPLANATION OF POINTS Assessed as occurred. Water was tested at 1480 mg/l at a flow rate of 200 gpm. Cottonwood Creek TSS was 195 mg/l TSS.

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 17

PROVIDE AN EXPLANATION OF POINTS Water entered Cottonwood Creek at seven (7) times the TSS level of the creek. Duration is unknown but was not greater than 1 week or less than four (4) hours. Assessed upward for high damage.

. 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) 33

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.

	RANGE	MID-POINT
No Negligence	0	0
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE negligence
 style="text-align: right;">ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS Dewatering spillway valve was locked open allowing water to pass through the pond without settling. The action was intentional although the actual intentions are not known. Work had been taking place in the previous week trying to determine the origin of a leak in the spillway device. (N84-4-10-1)

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? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Abatement was required immediately. Inspector recommends good faith points not applicable.

V. ASSESSMENT SUMMARY FOR N84-4-12-2 #2

I. TOTAL HISTORY POINTS	<u>8</u>
II. TOTAL SERIOUSNESS POINTS	<u>33</u>
III. TOTAL NEGLIGENCE POINTS	<u>15</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>56</u>
 TOTAL ASSESSED FINE	 <u>\$1220</u>



ASSESSMENT DATE 2-27-85 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT