



0013

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

File

Scott M. Matheson, Governor
L. Gary A. Boag, Commissioner
Dr. G. A. (Jim) Shirazi, Division Director

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

February 2, 1984

P396-996-710

CERTIFIED RETURN RECEIPT REQUESTED

Mr. Ron Hughes
Consolidation Coal Company
Emery Deep Mine
#2 Inverness Drive East
Englewood, Colorado 80112

RE: Proposed Assessment for State
Violation No. 83-4-15-1
ACT/015/015, Folder # 8
Emery County, Utah

Dear Mr. Hughes:

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 Dave Lof on December 16, 1983. 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
Assessment Officer

MAW/re

c: J. Merriman, OSM Albuquerque Field Office

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 15

PROVIDE AN EXPLANATION OF POINTS Per inspector's statement, this violation was discovered during an inspection. Not having data on certain parameters of surface waters prohibited the inspector from an evaluation of effects of the operation on water quality. Not having the parameters measured also prevented the development of a data base with which comparisons can be made at a later point. The two parameters not measured (oil and grease) at 2 of 10 monitoring stations, are considered essential for evaluation of impacts of the operation on the surrounding area's water quality.

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.

		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 16

PROVIDE AN EXPLANATION OF POINTS When a specific permit condition is violated, it is considered knowing and willful. Acknowledgement by the operator of the water monitoring directive from DOGM was supplied as part of the inspector's statement. Such a directive constitutes an interim permit condition. Because the operator was actively working to correct the problem at, and prior to, the date of issuance, negligence was assessed down from the mid-point.

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)

- 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? _____ ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS Good faith cannot be assessed at this time since, to my knowledge, it has not yet been abated.

V. ASSESSMENT SUMMARY

I. TOTAL HISTORY POINTS	1
II. TOTAL SERIOUSNESS POINTS	15
III. TOTAL NEGLIGENCE POINTS	16
IV. TOTAL GOOD FAITH POINTS	-

TOTAL ASSESSED POINTS 32

TOTAL ASSESSED FINE \$440.

Mary Ann Wright

ASSESSMENT DATE 2-1-84

ASSESSMENT OFFICER Mary Ann Wright

X INITIAL ASSESSMENT

FINAL ASSESSMENT