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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Salt Lake City, Utah 84180-1203
801-538-5340

May 16, 1989

CERTIFIED RETURN RECEIPT REQUESTED
P 001 717 857

Mr. Ron Thompson
Consolidation Coal Company
P.O. Box 527
Emery, Utah 84522

Dear Mr. Thompson:

Re: Proposed Assessment for State Violation No. N89-28-5-1, ACT/015/015, Folder #5, 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. This violation was issued by Division Inspector, Daron R. Haddock on April 21, 1989. 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 fifteen (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. The detailed brief should indicate the specific objections to the proposed assessment, stating the grounds for objection and what your assignment of points would be. (Submit a request for conference to Vicki Bailey, at the above address).

IF A TIMELY REQUEST IS NOT MADE, THE PROPOSED PENALTY(IES) WILL BECOME FINAL, AND THE PENALTY(IES) WILL BE DUE AND PAYABLE WITHIN THIRTY (30) DAYS OF THE PROPOSED ASSESSMENT. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

Joseph C. Helfrich
Assessment Officer

jb
Enclosure
MN36/31

an equal opportunity employer

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

COMPANY/MINE Consolidation Coal Company NOV # N-89-28-5-1

PERMIT # ACT/015/015 VIOLATION 1 OF 1

ASSESSMENT DATE 5/16/89 ASSESSMENT OFFICER Joseph C. Helfrich

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 5/16/89 EFFECTIVE ONE YEAR TO DATE 5/16/88

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS

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? Event

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? Water Pollution/offsite sediment loading
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector statement of May 5, 1989 revealed the following: Coal material up to one foot in depth had been deposited in the buffer zone area between the disturbed area and Christiansen stream with areas of coal deposition into the stream; thus 20 points are assigned.

3. What is the extent of actual or potential damage?

RANGE 0-25*

*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

The duration of coal fine deposition occurred over a number of years with the extent of damage minimal to Christiansen stream and associated buffer zone.

B. Hindrance Violations MAX 25 PTS

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

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS_____

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A OR B) 30

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.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS

Minimal negligence with respect to controlling the deposition of wind blown coal fines; thus 5 points are assigned.

IV. GOOD FAITH MAX -20 PTS. (either A or B) (Does not apply to violations requiring no abatement measures)

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)
(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occuring 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**

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)
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? Difficult **ASSIGN GOOD FAITH POINTS** 10

PROVIDE AN EXPLANATION OF POINTS

Onsite work completed prior to abatement date, approximately 5/12/89. Submission of plans pending.

V. ASSESSMENT SUMMARY FOR N-89-28-5-1

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	30
III.	TOTAL NEGLIGENCE POINTS	5
IV.	TOTAL GOOD FAITH POINTS	-10
	TOTAL ASSESSED POINTS	25
	TOTAL ASSESSED FINE	$ 300.00

jb
MN35/113-115