

*File*



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

Norman H. Bangerter, Governor  
Dee C. Hansen, Executive Director  
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

February 25, 1986

CERTIFIED RETURN RECEIPT REQUESTED  
P 001 720 879

Mr. Larry Guymon  
Emery Mining Corporation  
PO Box 310  
Huntington, Utah 84528

Dear Mr. Guymon:

RE: Proposed Assessment for State Violation No. N86-9-2-2,  
ACT/015/019, 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. This violation was issued by Division Inspector Holland Shepherd on January 31, 1986. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information 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 Ms. Jan Brown 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 then be considered 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,

*Mike Earl*

Mike Earl  
Assessment Officer

jmc  
Enclosure  
cc: D. Griffin  
7314Q

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

COMPANY/MINE UP&L/Wilberg NOV # N86-9-2-2  
 PERMIT # ACT/015/019 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 2/25/86 EFFECTIVE ONE YEAR DATE 2/26/85

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-10-1</u>	<u>6/10/85</u>	<u>1</u>	<u>N85-2-21-4 PA</u>	<u>10/31/85</u>	<u>0</u>
<u>N83-7-8-1</u>	<u>Vacated</u>	<u>0</u>	<u>N85-6-14-1 PA</u>	<u>12/18/85</u>	<u>0</u>
<u>N85-2-2-1</u>	<u>11/24/85</u>	<u>1</u>	<u>N83-5-1-1</u>	<u>12/25/85</u>	<u>1</u>
<u>N85-2-15-1</u>	<u>Vacated</u>	<u>0</u>	<u>N85-2-17-2 PA</u>	<u>10/31/85</u>	<u>0</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 3

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 15

PROVIDE AN EXPLANATION OF POINTS Assessed as occurred based on inspector statement that runoff heavily laden with sediment and coal fines was entering Grimes Wash, a perennial stream.



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 At the time of assessment this NOV had not been terminated. Plans requested.

V. ASSESSMENT SUMMARY FOR N86-9-2-2 #1

I. TOTAL HISTORY POINTS	<u>3</u>
II. TOTAL SERIOUSNESS POINTS	<u>23</u>
III. TOTAL NEGLIGENCE POINTS	<u>1</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>27</u>
 TOTAL ASSESSED FINE	 <u>\$340</u>

Mike Earl

ASSESSMENT DATE 2/25/86 ASSESSMENT OFFICER Mike Earl

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

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

COMPANY/MINE UP&L/Wilberg NOV # N86-9-2-2  
 PERMIT # ACT/015/019 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 2/25/86 EFFECTIVE ONE YEAR DATE 2/26/85

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-10-1</u>	<u>6/10/85</u>	<u>1</u>	<u>N85-2-21-4 PA</u>	<u>10/31/85</u>	<u>0</u>
<u>N83-7-8-1</u>	<u>Vacated</u>	<u>0</u>	<u>N85-6-14-1 PA</u>	<u>12/18/85</u>	<u>0</u>
<u>N85-2-2-1</u>	<u>11/24/85</u>	<u>1</u>	<u>N83-5-1-1</u>	<u>12/25/85</u>	<u>1</u>
<u>N85-2-15-1</u>	<u>Vacated</u>	<u>0</u>	<u>N85-2-17-2 PA</u>	<u>10/31/85</u>	<u>0</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 3

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? Environmental harm
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 6

PROVIDE AN EXPLANATION OF POINTS Assessed as unlikely based on inspector statement that damage would be minimal unless a large precipitation event occurred or heavy snow melt took place.

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 Inspector indicates that some sediment could be carried off site if the event occurred; however, damage would be minimal.

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) 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 Negligence  
 ASSIGN NEGLIGENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS Inspector indicates that sand and gravel had inadvertently been pushed into undisturbed drainage channel.

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 -2

PROVIDE AN EXPLANATION OF POINTS Operator was given until February 6, 1986 to abate. NOV was terminated February 11, 1986 but inspector indicates work was completed February 5, 1986.

V. ASSESSMENT SUMMARY FOR N86-9-2-2 #2

I. TOTAL HISTORY POINTS	<u>3</u>
II. TOTAL SERIOUSNESS POINTS	<u>14</u>
III. TOTAL NEGLIGENCE POINTS	<u>5</u>
IV. TOTAL GOOD FAITH POINTS	<u>-2</u>
 TOTAL ASSESSED POINTS	 <u>20</u>
 TOTAL ASSESSED FINE	 <u>\$200</u>

Mike Earl

ASSESSMENT DATE 2/25/86 ASSESSMENT OFFICER Mike Earl

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