



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

File

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

May 13, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 402 457 678

Mr. Wendell Owen
Co-Op Mining Company
P. O. Box 1245
Huntington, Utah 84528

Dear Mr. Owen:

RE: Proposed Assessment for State Violations No's. N84-4-13-3,
C84-7-1-1, ACT/015/025, Folder #8, Emery County, Utah

The undersigned have been appointed by the Board of Oil, Gas and Mining as the Assessment Officers 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's David Lof on October 24, 1984 (N84-4-13-3), and Ken Wyatt on August 7, 1984 (C84-7-1-1). 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 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 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
Mary Ann Wright
Assessment Officer

Mike Earl
Mike Earl
Assessment Officer

re

Enclosure

cc: D. Griffin, OSM Albuquerque Field Office
73140

SUMMARY OF PROPOSED ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING
355 West North Temple 3 Triad Center Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

COMPANY/MINE Co-Op/Bear Creek

PERMIT # ACT/015/025

<u>VIOLATION</u>	<u>AMOUNT</u>
<u>N84-4-13-1</u>	
<u>1</u> OF <u>3</u>	<u>200</u>
<u>2</u> OF <u>3</u>	<u>80</u>
<u>3</u> OF <u>3</u>	<u>380</u>
<u>C84-7-1-1</u>	
<u>1</u> OF <u>1</u>	<u>4,000</u>

TOTAL ASSESSED FINE \$ 4,660

0056-3

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

COMPANY/MINE Co-Up/ Bear Creek NOV # N84-4-13-3
 PERMIT # ACT/015/025 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 5-10-85 EFFECTIVE ONE YEAR DATE 5-11-84

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
<u>N84-7-3-1</u>	<u>11-23-84</u>	<u>1</u>	_____	_____	_____
<u>C84-7-1-1 PA</u>	<u>5-8-85</u>	_____	_____	_____	_____
<u>C83-5-1-4, #3</u>	<u>6-29-84</u>	<u>5</u>	_____	_____	_____
<u>C83-5-3-1</u>	<u>pending</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 6

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 1

PROVIDE AN EXPLANATION OF POINTS Per inspector, seepage thru holes in a berm has been occurring. Considered an insignificant probability to cause water pollution.

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. Per inspector, little damage has occurred.

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) 9

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	
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 Per inspector, operator demonstrated lack of reasonable care in constructing and maintaining the berm. Constructed of too large a size rock.

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

COMPANY/MINE Co-Op Bear Canyon NOV #N84-4-13-3

PERMIT # ACT/015/025 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 5-10-85 EFFECTIVE ONE YEAR DATE 5-11-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-3-1</u>	<u>11-23-84</u>	<u>1</u>	_____	_____	_____
<u>C84-7-1-1 PA</u>	<u>5-8-85</u>	_____	_____	_____	_____
<u>C83-5-1-4 #3</u>	<u>6-29-84</u>	<u>5</u>	_____	_____	_____
<u>C83-5-3-1</u>	<u>pending</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 6

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 1

PROVIDE AN EXPLANATION OF POINTS In the opinion of the inspector if damage had occurred the amount of damage would have been insignificant because only a small amount of dirt would have gone to the stream as most runoff would have gone to sediment pond.

3. Would or did the damage or impact remain within the exploration or permit area? Yes

	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 1

PROVIDE AN EXPLANATION OF POINTS Damage did not occur even though both the inlet and outlet of the culvert were blocked. Per the inspector any damage which may have occurred would have been limited due to the existence of an 8' berm.

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) 2

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 8

PROVIDE AN EXPLANATION OF POINTS It appears from inspector's reports that this problem could have been avoided with periodic 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 -8

PROVIDE AN EXPLANATION OF POINTS Even though the culvert was cleared immediately, the problem with the ditch was only solved after a one week extension of time to clear the violation.

V. ASSESSMENT SUMMARY FOR N84-4-13-3, #2

I. TOTAL HISTORY POINTS	<u>6</u>
II. TOTAL SERIOUSNESS POINTS	<u>2</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u>-8</u>
TOTAL ASSESSED POINTS	<u>8</u>
TOTAL ASSESSED FINE	<u>\$ 80</u>

Mike Earl

ASSESSMENT DATE May 10, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

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

COMPANY/MINE Co-Op Bear Canyon NOV #N84-4-13-3
PERMIT # ACT/015/025 VIOLATION 3 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 5-10-85 EFFECTIVE ONE YEAR DATE 5-11-84

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
<u>N84-7-3-1</u>	<u>11-23-84</u>	<u>1</u>	_____	_____	_____
<u>C84-7-1-1 PA</u>	<u>5-8-85</u>	_____	_____	_____	_____
<u>C83-5-1-4 #3</u>	<u>6-29-84</u>	<u>5</u>	_____	_____	_____
<u>C83-5-3-1</u>	<u>pending</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 6

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 13

PROVIDE AN EXPLANATION OF POINTS From inspectors report it did not appear that coal fine stains were visible below the outlet. However, there did not seem to be adequate retainment capacity for a 10 year, 24 hour flood.

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 18

PROVIDE AN EXPLANATION OF POINTS Although water was not flowing at the time of the inspection the duration of the violation is unknown as sediment pond inspections had not been done. Damage would extend offsite according to inspector, sediment pond could have flushed out into fisheries 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) 31

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	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Negligence
 style="text-align: right;">ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS Weekly sediment pond inspections had not been done. Operator should be fully aware that the dewatering device should have been closed.

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

COMPANY/MINE Co-Op/Bear Creek NOV # C84-7-1-1
 PERMIT # ACT/015/025 VIOLATION 1 OF 1

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 5/10/85 EFFECTIVE ONE YEAR DATE 5/11/84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-3-1</u>	<u>11-23-84</u>	<u>1</u>	<u>N84-4-13-3 PA</u>	<u>5-8-85</u>	<u> </u>
<u>C83-5-1-4 #3</u>	<u>6-29-84</u>	<u>5</u>	<u> </u>	<u> </u>	<u> </u>
<u>C83-5-3-1</u>	<u>pending</u>	<u>0</u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </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 6

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 Damage to property
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 Per inspector, mining outside the permit boundary may cause unexpected damage by surface subsidence and interruption of groundwater flow. Approximately 8 acres of coal was mined. Damage to the resource has occurred.

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 23

PROVIDE AN EXPLANATION OF POINTS The extent of damage included the mining of about 8 acres of unpermitted coal. Potential subsidence and the effect on the groundwater system are to be considered and are unknown.

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) 38

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 Per inspector statement, operator is responsible for mining only within the limits of the permitted area. Considered reckless and assesseu as Greater Degree of Fault.

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 Per inspector's statement, a permit boundary revision request was required by August 20, 1984. The revision was received August 21, 1984. No good faith is warranted.

V. ASSESSMENT SUMMARY FOR C84-7-1-1

I. TOTAL HISTORY POINTS	<u>6</u>
II. TOTAL SERIOUSNESS POINTS	<u>38</u>
III. TOTAL NEGLIGENCE POINTS	<u>30</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>74</u>
 TOTAL ASSESSED FINE	 <u>\$4,000</u>

Mary Ann Wright

ASSESSMENT DATE May 8, 1985 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT