

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 19, 1988

CERTIFIED RETURN RECEIPT REQUESTED
P 001 717 220

Mr. Charles Gent
Genwal Coal Company
P. O. Box 1201
Huntington, Utah 84501

Dear Mr. Gent:

Re: Proposed Assessment for State Violation No. N88-16-2-1,
ACT/015/032, 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, James Leatherwood on February 4, 1988. 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. (Submit a request for a conference to Ms. 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
Joseph C. Helfrich
Assessment Officer

re
Enclosure
7314Q

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

COMPANY/MINE Genwal Coal Company NOV # N88-16-2-1
 PERMIT # ACT/015/032 VIOLATION 1 OF 1
 ASSESSMENT DATE 02-19-88 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 02-19-88 EFFECTIVE ONE YEAR TO DATE 02-19-88

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
<u>N87-16-1-1</u>	<u>10-11-87</u>	<u>1</u>	_____	_____	_____
<u>N87-16-2-1</u>	<u>1-29-88</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 2

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? Hindrance

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
None	0
Insignificant	1-4
Unlikely	5-9
Likely	10-14
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS N/A

PROVIDE AN EXPLANATION OF POINTS

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

Potential or Actual 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 0

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

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

RANGE

Potential hindrance 1-12
Actual hindrance 13-25

Assign points based on the extent to which enforcement is hindered by the violation. ASSIGN HINDRANCE POINTS 19

PROVIDE AN EXPLANATION OF POINTS Inspector statement indicates actual hindrance with respect to availability of permits for observed activities.

TOTAL SERIOUSNESS POINTS (A or B) 19

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

Inspector report indicates that the operator was unaware of the Division's temporary permit approval expiration date.

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 5

PROVIDE AN EXPLANATION OF POINTS

Operator provided written request for an extension that day.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N87-16-2-1</u>
I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>19</u>
III.	TOTAL NEGLIGENCE POINTS	<u>5</u>
IV.	TOTAL GOOD FAITH POINTS	<u>- 5</u>
	TOTAL ASSESSED POINTS	<u>21</u>
	TOTAL ASSESSED FINE	<u>220.</u>