



0009  
STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

*John*  
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

August 20, 1985

Mr. Jack Higgins  
2783 Holiday Ranch Loop Road  
Park City, Utah 84060

Dear Mr. Higgins:

RE: Proposed Assessment for State Violation No. C85-1-1-1,  
INA/043/001, Folder #8, Summit 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 Joe Helfrich, on March 1, 1985. 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

re  
Enclosure  
cc: D. Griffin, OSM Albuquerque Field Office  
73140

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

COMPANY/MINE Jack Higgins, Black Hawk NOV # C85-1-1-1  
 PERMIT # INA/043/001 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 8-19-85 EFFECTIVE ONE YEAR DATE 8-20-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS

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

- What is the event which the violated standard was designed to prevent? Conducting activities without appropriate approvals. Injury to the public.
- 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 20

PROVIDE AN EXPLANATION OF POINTS The probability of the first listed event is assessed as occurred. Therefore, the CO is assessed as such. Per inspector, operator "wildcatted" on this site. Mine development in the form of access and pad development has taken place at this site without a permit or a bond for such activities.

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 22

PROVIDE AN EXPLANATION OF POINTS Damage resulted from a wildcat operation and was therefore not permitted or bonded. Extent of damage includes development of a road 300 feet X 40 feet and two pads 150 feet d x 15-20 feet high, the blockage of two existing portals and a bridge. No topsoil was saved in the process. No perimeter markers, drainage control measures, permit signs or buffer zones were in place. Damage has continued since the early part of 1985.

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) 42

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	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 Operator has been issued federal violations and received warnings from DOGM staff since April, 1984.

