

0009

Glen A. Zumwalt
Vice President and
General Manager

*Orig mem file CC: KE MAY
JC Helfrich
LP Braxton
Pruitt
MM*



**Utah Fuel
Company**

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Helper, Utah 84526
(801) 637-7925 or
Salt Lake (801) 566-7111

September 24, 1985

Subsidiary of
Coastal States
Energy Company

Dr. Dianne Nielson, Director
DIVISION OF OIL, GAS & MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

*ACT 1007/005
#7*

RECEIVED

OCT 03 1985

**DIVISION OF OIL
GAS & MINING**

Dear Dr. Nielson:

Over the past few weeks we have been issued several NOV's which we feel are unjustified and unwarranted. We are requesting that NOV's N85-2-16-2 (1 of 2), N85-2-18-2 (2 of 2) and N85-2-19-2 (1 of 2 and 2 of 2) be vacated. We feel that these NOV's were issued in error based upon the following information:

NOV N85-2-16-2 (1 of 2): This NOV was issued for failure to construct a surface drainage ditch along the north side of the trench of the loadout yard which was designated for sediment disposal in plans from Utah Fuel Company dated 7/22/85 and DOGM conditional approval dated 8/19/85. The surface drainage for the train loadout area was not interrupted. Any surface run-off that might have occurred before this ditch was constructed would still report to the sedimentation pond. Nowhere in our plans dated 7/22/81 or in DOGM's conditional approval dated 8/19/85 does it indicate or infer that this ditch must be constructed before we start to dispose of the sediment pond material into the trench under BC-12. Even in our early planning we did not plan to construct this replacement ditch before depositing the sediments in the trench underneath BC-12 conveyor. The reason for this is that the ditch is to be constructed on the same side of the trench where the trucks unload. If we constructed the ditch first, the trucks would have to back through the ditch in order to dump into the trench. This would have greatly hampered the disposal process. Our plans were to construct the ditch upon completion of the hauling and this is what we have done.

NOV N85-2-18-2 (2 of 2): This NOV was issued for failure to meet Condition #3 of the Division's conditional approval letter dated 8/19/85. Condition #3 states that "Utah Fuel must notify the Division prior to disposal of the excess sediment to the waste rock disposal area as to the quantity of the excess and the anticipated haul date." On August 23, 1985 Keith Zobell of our staff telephoned Lowell Braxton and discussed the five items contained in the Division's August 19,

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1985 letter. Concerning Item #3, Mr. Braxton was informed that we would be hauling sediment pond material to both disposal sites as soon as approval was received. The sediment pond had been decanted earlier and the contractor was prepared to start hauling. Mr. Braxton was informed that we planned on hauling approximately 2,000 cubic yards of material to each disposal site. Mr. Braxton expressed concern that they had not received a response on the disposal plan from the U.S. Forest Service. Mr. Zobell had talked with Ira Hatch, District Ranger for the U.S. Forest Service, before calling Mr. Braxton and Ranger Hatch told Mr. Zobell that he had no problems with the disposal plan and had sent a memo in to that effect. Mr. Zobell conveyed this information to Mr. Braxton who advised Utah Fuel Company not to start up operations until 2:00 P.M. and that if we hadn't heard by then, to proceed clearing the material from the sediment pond. At 3:35 P.M. on August 23, 1985 a telephone message from Lowell Braxton was taken by one of our secretaries which stated, "Verbal approval to proceed as per our conversation - memo to follow." We have attached a copy of this message for your information. As you will note, there is no mention of any stipulation or condition on this approval. We proceeded with cleaning the pond in good faith.

NOV N85-2-19-2 (1 of 2): This NOV was issued for failure to meet condition #3 of the Division's August 12, 1985 letter which stated, "Utah Fuel Company will install and maintain water discharge recording equipment provided by the Division ... within two weeks of date of receipt."

While we were in Salt Lake City at the Division Office on August 19, 1985, Randy Harden handed us the recorder to be installed. The installation of the recorder was discussed with him by me as well as by Douglas Johnson and Keith Zobell of my staff. We agreed with Randy that we would have the recorder installed before he or someone else from the Division came down to officially start the recorder. We reiterated to him the same thing that we had outlined in our July 19, 1985 letter on this subject, that he needed to let us know at least 10 days in advance as to when he would be coming down so that we could insure that the recorder would be installed and ready to run.

The two-week deadline for installation as stated in the Division's August 15th letter was a unilateral decision that we had not agreed to, and, frankly, after talking with Randy, didn't think was mandatory.

After the NOV was issued, we called Randy and talked with him and agreed to have the recorder installed and ready for start-up by September 17, 1985. Randy was able to come to the mine on September 16 and the recorder was officially started.

NOV N85-2-19-2 (2 of 2): This NOV was issued because Utah Fuel Company was discharging mine water directly into the creek without permission

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from the Division.

We have an NPDES permit which allows us to do the very thing which we did. The NPDES permit is required by our approved Skyline M&RP plan and is referred to in several places. Our NPDES permit No. UT-0023540 on Page 10 of 16, paragraph 5 (a 1 and b) states: (5a 1) "Bypass means the intentional diversion of waste streams from any portion of a treatment facility." 5b states: "The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure effective operation. These bypasses are not subject to the provisions of paragraphs c and d of this section." Although we were not subject to paragraph c which states, "If a permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten (10) days before the date of the bypass." We went ahead and also met these conditions.

This bypass was not a secret. It was openly discussed with members of your staff several days before it was started as well as on the day it was started. It was also discussed with DOH and EPA.

As you can see, all of these NOV's are in the field "paper NOV's" and do nothing to eliminate or mitigate environmental pollution or degradation. We feel that these are the types of NOV's that should be avoided by the Division and serve only to waste industry's time. This type of NOV requires a tremendous amount of time, effort and paper work by both your staff as well as mine and yet nothing is really changed or accomplished by their issuance. I am sure that the Division could put the man hours and taxpayer dollars to better use. I know that in industry our man hours and dollars would be more productive if our people spend this time in the field making real improvements and protecting the environment.

Again, we are requesting that these NOV's be vacated. We appreciate your reviewing these concerns.

Sincerely,



for Glen A. Zumwalt
Vice President and General Manager

GAZ:KZ:jsg

cc: Ken May
Lowell Braxton
Sandy Pruitt
Clayton Parr

WHILE YOU WERE OUT

To Keith Zobeell

Date 8-23 Time 3:35 ^{A.M.} _{P.M.}

M Lowell Braxton

of BOSM

Phone _____
Area Code Number Ext.

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Urgent	<input type="checkbox"/>

Message Verbal approval to
proceed as per your
conversation
memo to follow

Taken by NW

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