



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining


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

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August 20, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 948

Mr. Keith Zobell
Utah Fuel Company
P. O. Box 719
Helper, Utah 84526

Dear Mr. Zobell:

RE: Proposed Assessment for State Violation No. N85-2-9-2,
ACT/007/005, Folder #8, Carbon 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 Sandy Pruitt on June 20, 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,



Mike Earl
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 Utah Fuel/Skyline NOV. # N85-2-9-2

PERMIT # ACT/007/005 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 8-15-85 EFFECTIVE ONE YEAR DATE 8-16-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
N84-7-5-2	11-17-84	1			
N84-2-24-3 PA	6-20-85	0			
N85-2-5-1 PA	7-15-85	0			
N85-2-7-2 PA	7-15-85	0			

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 1

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? Environmental Harm
- 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 10

PROVIDE AN EXPLANATION OF POINTS Assessed as likely based on inspector statement that proximity of mining activities to unmarked buffer zone determines likelihood of occurrence. A coal stockpile is being developed up to the buffer zone at the south fork of Eccles Creek.

WORKSHEET FOR ASSESSMENT OF PENALTIES

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 9

PROVIDE AN EXPLANATION OF POINTS _____

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) 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.

		MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE _____ Negligence
 ASSIGN NEGLIGENCE POINTS 2

PROVIDE AN EXPLANATION OF POINTS Inspector states that the markers were in place in 1982 and were probably removed for flood repairs. Probably due to an oversight they were not replaced.

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? _____ ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS An extension of time for abatement was granted after operator ordered signs. However, no signs were posted in the meantime.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N85-2-9-2 #1</u>
	I. TOTAL HISTORY POINTS	<u>1</u>
	II. TOTAL SERIOUSNESS POINTS	<u>19</u>
	III. TOTAL NEGLIGENCE POINTS	<u>2</u>
	IV. TOTAL GOOD FAITH POINTS	<u>0</u>
	TOTAL ASSESSED POINTS	<u>22</u>
	TOTAL ASSESSED FINE	<u>\$ 240</u>

Mike Earl

ASSESSMENT DATE August 15, 1985 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

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

COMPANY/MINE Utah Fuel/Skyline NOV # N85-2-9-2

PERMIT # ACT/007/005 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 8-15-85 EFFECTIVE ONE YEAR DATE 8-16-84

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
N84-7-5-2	11-17-84	1			
N84-2-24-3 PA	6-20-85	0			
N85-2-5-1 PA	7-15-85	0			
N85-2-7-2 PA	7-15-85	0			

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 1

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 10

PROVIDE AN EXPLANATION OF POINTS Per inspector statement there was no evidence that the event had occurred. Assessed as likely based on statement that minor erosion probably had occurred on a disturbed slope at area "C". Area "C" is the undisturbed drainage diversion above loadout silos.

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 from sedimentation would occur offsite from areas A and B according to inspector statement.

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) 18

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 Operator failed to provide appropriate sediment control measures to prevent contributions of sediment to streamflow.

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? Difficult ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Operator initially given until July 5, 1985 to abate. Extended until July 19, 1985. At time of assessment area "D" still needed to be addressed regarding abatement

<u>ASSESSMENT SUMMARY FOR</u>	<u>N85-2-9-2 #2</u>
I. TOTAL HISTORY POINTS	<u>1</u>
II. TOTAL SERIOUSNESS POINTS	<u>18</u>
III. TOTAL NEGLIGENCE POINTS	<u>5</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>24</u>
 TOTAL ASSESSED FINE	 <u>\$ 280</u>

Mike Earl

ASSESSMENT DATE 8-15-85 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT