



0053

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

July 29, 1985

CERTIFIED RETURN RECEIPT REQUESTED  
P 402 457 702Mr. Keith Zobell  
Utah Fuel Company  
P. O. Box 719  
Helper, Utah 84526

Dear Mr. Zobell:

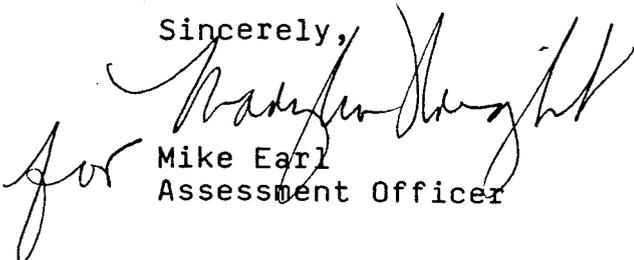
RE: Proposed Assessment for State Violations Nos. N85-2-7-2,  
N85-2-5-1, ACT/007/005, Folder #7, Carbon County, Utah

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 assessments for the above referenced violations. These violations were issued by Division Inspector Sandy Pruitt, N85-2-5-1 on April 5, 1985 and N85-2-7-2 on June 3, 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,

  
for 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 # N85-2-7-2  
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 7-15-85 EFFECTIVE ONE YEAR DATE 7-16-84

| PREVIOUS VIOLATIONS  | EFF.DATE        | PTS      | PREVIOUS VIOLATIONS | EFF.DATE | PTS |
|----------------------|-----------------|----------|---------------------|----------|-----|
| <u>N84-7-5-2</u>     | <u>11-17-84</u> | <u>1</u> |                     |          |     |
| <u>N84-2-24-3 PA</u> | <u>6-20-85</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 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? Hindrance

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? \_\_\_\_\_
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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS \_\_\_\_\_

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

|                         | 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 \_\_\_\_\_

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 15

PROVIDE AN EXPLANATION OF POINTS Rated as actual hindrance based on inspector statement, operator did not comply with the terms and conditions of the mine permit providing a certified inspection report regarding construction of disposal pit.

TOTAL SERIOUSNESS POINTS (A or B) 15

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 6

PROVIDE AN EXPLANATION OF POINTS Per inspector statement the operator apparently was not aware of commitment in the MRP of the performance standard. The operator should be aware of the requirements in the MRP.

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 Plans and a certified inspection by a registered engineer were required. Abatement deadline was extended to July 8, 1985. NOV was terminated when certified reports were submitted July 3, 1985

V. ASSESSMENT SUMMARY FOR N85-2-7-2, #2

|                              |                   |
|------------------------------|-------------------|
| I. TOTAL HISTORY POINTS      | <u>1</u>          |
| II. TOTAL SERIOUSNESS POINTS | <u>15</u>         |
| III. TOTAL NEGLIGENCE POINTS | <u>6</u>          |
| IV. TOTAL GOOD FAITH POINTS  | <u>0</u>          |
| <br>TOTAL ASSESSED POINTS    | <br><u>22</u>     |
| <br>TOTAL ASSESSED FINE      | <br><u>\$ 240</u> |

*Mike Earl*  
 \_\_\_\_\_  
 Mike Earl

ASSESSMENT DATE 7-15-85 ASSESSMENT OFFICER \_\_\_\_\_

X PROPOSED ASSESSMENT \_\_\_\_\_ FINAL ASSESSMENT

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

COMPANY/MINE Utah Fuel/Skyline NOV # N85-2-5-1  
 PERMIT # ACT/007/005 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 7-15-85 EFFECTIVE ONE YEAR DATE 7-16-84

| PREVIOUS VIOLATIONS  | EFF.DATE        | PTS      | PREVIOUS VIOLATIONS | EFF.DATE | PTS |
|----------------------|-----------------|----------|---------------------|----------|-----|
| <u>N84-7-5-2</u>     | <u>11-17-84</u> | <u>1</u> |                     |          |     |
| <u>N84-2-24-3 PA</u> | <u>6-20-85</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 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 17

PROVIDE AN EXPLANATION OF POINTS Per inspector statement a muddy plume from runoff was observed in Eccles Creek. Runoff from snowmelt was circuited. Strawbales had been in place over the winter for sediment control but apparently the runoff circuited between the bales.

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 12

PROVIDE AN EXPLANATION OF POINTS Per inspector statement the operator had recently maintained the strawbales. However, the runoff had occurred between the bales resulting in no retention for the sedimentation. The volume of the sediment in the runoff was greater than that observed in Eccles Creek. No damage from stream sediment was evident.

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) 29

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 Negligence

ASSIGN NEGLIGENCE POINTS 2

PROVIDE AN EXPLANATION OF POINTS Operator did attempt to control runoff with strawbales although the alignment of the bales may not be adequate.

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 Operator was given until April 19, 1985 to abate. NOV was terminated April 16, 1985.

| <u>ASSESSMENT SUMMARY FOR</u> | <u>N85-2-5-1</u>  |
|-------------------------------|-------------------|
| I. TOTAL HISTORY POINTS       | <u>1</u>          |
| II. TOTAL SERIOUSNESS POINTS  | <u>29</u>         |
| III. TOTAL NEGLIGENCE POINTS  | <u>2</u>          |
| IV. TOTAL GOOD FAITH POINTS   | <u>-8</u>         |
| <br>TOTAL ASSESSED POINTS     | <br><u>24</u>     |
| <br>TOTAL ASSESSED FINE       | <br><u>\$ 280</u> |

*Madeline Wright for*

ASSESSMENT DATE 7-15-85 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT \_\_\_\_\_ FINAL ASSESSMENT