

0073



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

A handwritten signature in cursive, likely belonging to Norman H. Bangerter.

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

June 24, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 861 874

Mr. Glen Zumwalt
Utah Fuel Company
P o Box 719
Helper, Utah 84526

Dear Mr. Zumwalt:

RE: Proposed Assessment for State Violation No. N84-2-24-3,
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 December 13, 1984. 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,

A handwritten signature in cursive, reading '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 Utah Fuel Co./ Skyline NOV # N84-2-24-3
 PERMIT # ACT/007/005 VIOLATION 2 OF 3*
* 1 Vacated

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 June 20, 1985 EFFECTIVE ONE YEAR DATE June 21, 1984

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-5-2, #2</u>	<u>11-17-84</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					<u>1</u>

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? Hindrance
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? 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 _____

PROVIDE AN EXPLANATION OF POINTS _____

B. Hindrance Violations MAX 25 PTS

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

	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 16

PROVIDE AN EXPLANATION OF POINTS DOGM is actually hindered from knowing if adequate treatment is provided for runoff from 31.1 acres of disturbed area since the pond was not designed for the additional 200,000 gal/day mine water influx to the pond. Assessed down from not hindering entire inspection.

TOTAL SERIOUSNESS POINTS (A or B) _____ 16

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 no negligence
 ASSIGN NEGLIGENCE POINTS _____ 0

PROVIDE AN EXPLANATION OF POINTS Per inspector, an earlier NOV (N84-7-5-2) was vacated, giving the operator the impression that they were in compliance on the sediment pond.

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 -

PROVIDE AN EXPLANATION OF POINTS Abatement deadline has been extended until June 18, 1985. To my knowledge, this NOV has not yet been terminated.

V. ASSESSMENT SUMMARY FOR N84-2-24-3, #2

I. TOTAL HISTORY POINTS	<u>1</u>
II. TOTAL SERIOUSNESS POINTS	<u>16</u>
III. TOTAL NEGLIGENCE POINTS	<u>0</u>
IV. TOTAL GOOD FAITH POINTS	<u>-</u>

TOTAL ASSESSED POINTS 17

TOTAL ASSESSED FINE \$ 1701

Mary Ann Wright

ASSESSMENT DATE 6-20-85 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

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

COMPANY/MINE Utah Fuel Co/Skyline NOV # N84-2-24-3

PERMIT # ACT/007/005 VIOLATION 3 OF 3

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 6-20-85 EFFECTIVE ONE YEAR DATE 6-21-84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-7-5-2, #2</u>	<u>11-17-84</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 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? 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 _____

PROVIDE AN EXPLANATION OF POINTS _____

B. Hindrance Violations MAX 25 PTS

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

	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 14

PROVIDE AN EXPLANATION OF POINTS Per inspector, monitoring only for settleable solids instead of for TSS hindered inspector from knowing decanted water quality. Assessed down for not hindering entire inspection.

TOTAL SERIOUSNESS POINTS (A or B) 14

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 The EPA regs allowing the alternate monitoring of SS are relatively new. Per inspector, operator thought they had complied since they had discussed it with State Health.

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 0

PROVIDE AN EXPLANATION OF POINTS Abatement required was "immediately".
The NOV was terminated effective on the date the NOV was issued.

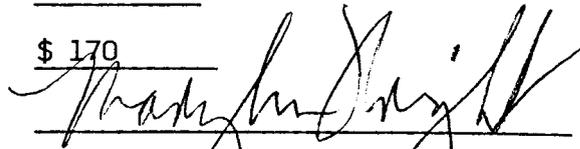
ASSESSMENT SUMMARY FOR

N84-2-24-3, #3

I. TOTAL HISTORY POINTS	<u>1</u>
II. TOTAL SERIOUSNESS POINTS	<u>14</u>
III. TOTAL NEGLIGENCE POINTS	<u>2</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 17

TOTAL ASSESSED FINE \$ 170



ASSESSMENT DATE June 20, 1985 ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT

_____ FINAL ASSESSMENT