



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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February 12, 1996

CERTIFIED RETURN RECEIPT  
P 074 979 435

Ken Payne, Manager  
Utah Fuel Company  
P. O. Box 719  
Helper, Utah 84526

Re: Proposed Assessment for State Violation, Cessation Order #C-95-39-1-1, Utah Fuel Company, Skyline Mine, ACT/007/005, Folder #5, Carbon County, Utah

Dear Mr. Payne:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Steven J. Demczak on August 7, 1995. Rule R645-401-600 et. Sec. Has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the Assessment Conference will be scheduled immediately following that review.



C-95-39-1-1  
ACT/007/005  
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**If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.**

Sincerely,



Joseph C. Helfrich  
Assessment Officer

mt  
Enclosure  
cc: James Fulton, OSM  
a:007005.ltr

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

COMPANY/MINE Utah Fuel Company / Skyline Mine

#C-95-39-1-1

PERMIT # ACT/007/005

VIOLATION 1 OF 1

ASSESSMENT DATE 02/08/96

ASSESSMENT OFFICER Joseph C. Helfrich

**I. HISTORY MAX 25 PTS**

- A. Are there any previous violations which are not pending or vacated, which fall within one year of today's date?

ASSESSMENT DATE 02/08/96

EFFECTIVE ONE YEAR TO DATE 02/08/95

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N-95-39-3-1</u>	<u>01-15-95</u>	<u>1</u>

One point, for each past violation, up to one year;  
Five points, for each past violation in a CO, up to one year;  
No pending notices will 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 Assessment Officer 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?  
The Activity outside the approved permit area, environmental harm and water pollution.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?  
Occurred

PROBABILITY	RANGE
None	<u>0</u>
Unlikely	<u>1-9</u>
Likely	<u>10-19</u>
Occurred	<u>20</u>

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS**

The deposition of oil emulsion to eccles and mud creeks from the mining operation occurred.

3. What is the extent of actual or potential damage?

**RANGE 0 - 25\***

\*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 25**

**PROVIDE AN EXPLANATION OF POINTS**

An unknown portion of thirteen thousand eight hundred and ninety gallons of oil emulsion was discharged, impacting the habitat and fishery population of two stream courses.

**B. Hindrance Violations MAX 25 PTS**

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

**RANGE 0 - 25**

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS**

**TOTAL SERIOUSNESS POINTS (A or B) 45**

**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, lacks 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.**

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

**STATE DEGREE OF NEGLIGENCE Greater Degree of Fault**

**ASSIGN NEGLIGENCE POINTS 25**

**PROVIDE AN EXPLANATION OF POINTS**

The following conditions contribute to the negligence of this assessment. Notification to the Division occurred approximately five hours after the spill had been discovered. Deposition of emulsion laden waters from the sediment bond into inaccessible areas in the mine without prior knowledge and/or approval by the Division. The permittee had not taken measures to prevent the discharge of toxic polutants from the sediment pond to stream courses located outside the permit area which previously occurred.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring any abatement measures.)**

**A.** Did the operator have the onsite 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**

(The operator complied within the abatement period required)

(The operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

\* Assign in upper or lower half of range depending on abatement occurring in first or second 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**

Difficult Abatement Situation

**Rapid Compliance -11 to -20\***

(Permittee used diligence to abate the violation)

**Normal Compliance -1 to -10\***

(The 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)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_ **ASSIGN GOOD FAITH POINTS 0**

**PROVIDE AN EXPLANATION OF POINTS**

There are no affirmative obligations required by this enforcement action.

**V. ASSESSMENT SUMMARY FOR N-95-39-1-1**

<u>I.</u>	<u>TOTAL HISTORY POINTS</u>	1
<u>II.</u>	<u>TOTAL SERIOUSNESS POINTS</u>	45
<u>III.</u>	<u>TOTAL NEGLIGENCE POINTS</u>	25
<u>IV.</u>	<u>TOTAL GOOD FAITH POINTS</u>	-0
	<u>TOTAL ASSESSED POINTS</u>	71
	<u>TOTAL ASSESSED FINE</u>	<u>\$ 2280.00</u>