

File



0018

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

October 4, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 592 431 895

Ms. Jean Semborski
Mining Engineer
U. S. Fuel Company
Hiawatha, Utah 84527

Dear Ms. Semborski:

RE: Proposed Assessment for State Violation No. N85-6-10-1,
ACT/007/011, 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 Bart Kale on August 28, 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,

Michael L. Earl
Assessment Officer

dd
Enclosure

cc: D. Griffin, OSM Albuquerque Field Office
7314Q

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

COMPANY/MINE U. S. Fuel/Hiawatha NOV #N85-6-10-1
 PERMIT # ACT/007/011 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 10/3/85 EFFECTIVE ONE YEAR DATE 10/4/84

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N84-4-8-8</u>	<u>3/27/85</u>	<u>7</u>	_____	_____	_____
<u>N84-8-1-3</u>	<u>3/26/85</u>	<u>2</u>	_____	_____	_____
<u>N84-4-9-1</u>	<u>3/22/85</u>	<u>1</u>	_____	_____	_____
<u>N85-6-2-1</u>	<u>9/13/85</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 11

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? Environmental Harm
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 16

PROVIDE AN EXPLANATION OF POINTS Per inspector statement, silt fences at the north fork portal area were eroded and short circuited. Water had undercut or gone around each of the three stages.

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 Assessed at lower end of scale based on inspector statement that even though potential damage could occur, the damage was limited and no significant erosion was occurring.

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) 24

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.

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

STATE DEGREE OF NEGLIGENCE Negligence
 ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS Inspector indicates that this problem had been discussed with the operator on two previous inspections.

