



0022

STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

Norman H. Bangertter, 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

February 27, 1985

REGISTERED RETURN RECEIPT REQUESTED  
P 402 457 381

Ms. Jean Semborski  
U. S. Fuel Company  
Hiawatha Complex  
Hiawatha, Utah 84501

Dear Ms. Semborski

RE: Finalized Assessment for State Violation No. N84-8-1-3,  
N84-4-8-8, ACT/007/011, Folder #8, Carbon County, Utah

The civil penalty for the violation No.'s N84-8-1-3,  
N84-4-8-8, has been finalized in the amount shown in the attached  
assessment conference report. This assessment is finalized as a  
result of the meeting, discussion or letter described on the  
reassessment form.

Any appeal to the Board of Oil, Gas and Mining must be made in  
writing within fifteen (15) days of your receipt of this letter.  
Additionally, you must have escrowed the assessed civil penalties  
with the Division within a maximum of 30 days of receipt of this  
letter but in all cases prior to the Board Hearing. Failure to  
comply with the above-stated statutory requirements shall result in  
a waiver of your right of further recourse.

If no appeal or an untimely improper appeal is made, the  
assessed civil penalties must be tendered to the Division within  
thirty (30) days of your receipt of this letter.

Thank you for your cooperation.

Sincerely,

Lorin P. Nielsen  
Assessment Conference Officer

re

cc: Donna Griffin, OSM Albuquerque  
Joe Helfrich  
Barbara Roberts  
03900

ASSESSMENT CONFERENCE REPORT  
Utah Division of Oil, Gas & Mining  
4241 State Office Building  
Salt Lake City, Utah 84114

NOV/CO No. N84-8-1-3

Location of Conference: Salt Lake City, Utah

Date of Conference: January 28, 1985

Company Name/Mine Name: United States Fuel Company/Hiawatha Complex

Persons in Attendance

Representing

Lorin P. Nielsen  
David Lof  
Tom Wright  
Jean Semborski  
Paul Schank  
Robert Eccli  
Mike Keller

Assessment Conference Officer DOGM  
DOGM  
DOGM  
U. S. Fuel  
U. S. Fuel  
U. S. Fuel  
Attorney for U. S. Fuel

Violation No.

Amount of Assessment  
As Revised

N84-8-1-3, #1

\$ 580.

#2

640.

#3

-0-

TOTAL

\$ 1220.

Approved: *Lorin P. Nielsen*  
(Signature of Conference Officer)

Date: 2-26-85

This assessment has been set as a result of an informal conference held by the assessment officer. Should the Company desire a review in a more formal proceeding before the Board of Oil, Gas & Mining, a hearing can be requested within 15 days of receipt of this report.

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N84-8-1-3Violation 1 of 1(a) Nature of violation: Failure to mine in accordance with approved plan.(b) Date of termination: August 31, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>                    </u>	<u>                    </u>
Extent of Damage	<u>                    </u>	<u>                    </u>
(2) Obstr. to Enforcement	<u>22</u>	<u>22</u>
(c) Negligence	<u>20</u>	<u>10</u>
(d) Good Faith	<u>                    </u>	<u>                    </u>
(e) Acreage	<u>                    </u>	<u>                    </u>
TOTAL	<u>49</u>	<u>39</u>

3. Narrative:  
(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)History: AffirmedObstruction: Ponds not built as approved, but built as could. Modification not obtained from DOGM. AffirmedNegligence: Assessed as lack of reasonable care in not obtaining modifications. As built plans approved by tech staff. Change to 10Good Faith: Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N84-8-1-3Violation 2 of 3(a) Nature of violation: Failure to pass all surface runoff through sediment pond before leaving permit area.  
(b) Date of termination: November 8, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>12</u>	<u>12</u>
Extent of Damage	<u>14</u>	<u>14</u>
(2) Obstr. to Enforcement		
(c) Negligence	<u>12</u>	<u>12</u>
(d) Good Faith	<u>-</u>	<u>4</u>
(e) Acreage		
TOTAL	<u>45</u>	<u>41</u>

## 3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: AffirmedProbability: AffirmedNegligence: AffirmedGood Faith: Plans required before placement of road slot. Difficult situations. Plans modified as required and resubmitted prior to end of 90 day period. Award 4 points.

ASSESSMENT CONFERENCE REPORT  
(continued)

1. Notice of Violation/Cessation Order No. N84-8-1-3-  
 Violation 3 of 3  
 (a) Nature of violation: Failure to design and construct  
 (b) Date of termination: August 31, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>          </u>
(b) Seriousness		
(1) Probability of Occurrence	<u>18</u>	<u>          </u>
Extent of Damage	<u>14</u>	<u>          </u>
(2) Obstr. to Enforcement	<u>          </u>	<u>          </u>
(c) Negligence	<u>18</u>	<u>          </u>
(d) Good Faith	<u>0</u>	<u>          </u>
(e) Acreage	<u>          </u>	<u>          </u>
TOTAL	<u>57</u>	<u>0</u>

3. Narrative:  
 (Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

Pre-law structure permit application to DOGM (currently under review) must be approved prior to redesigning or rewatering structure. MRP proposes no change in structure. Thus no change in design and construct proposed. Under review at time of inspection. Thus, cannot write NOV requiring changes until tech staff decision. Vacate both NOV and penalty.

ASSESSMENT CONFERENCE REPORT  
 Utah Division of Oil, Gas & Mining  
 4241 State Office Building  
 Salt Lake City, Utah 84114

NOV/CO No. N84-4-8-8

Location of Conference: Salt Lake City, Utah

Date of Conference: January 28, 1985

Company Name/Mine Name: U. S. Fuel/Hiawatha Complex

Persons in Attendance

Lorin P. Nielsen  
David Lof  
Tom Wright  
Jean Semborski  
Paul Schank  
Robert Eccli  
Mike Keller

Representing

Assessment Conference Officer DOGM  
DOGM  
DOGM  
U. S. Fuel  
U. S. Fuel  
U. S. Fuel  
Attorney for U. S. Fuel

<u>Violation No.</u>	<u>Amount of Assessment As Revised</u>
<u>N84-4-8-8 #1</u>	<u>\$ 1780</u>
<u>#2</u>	<u>0</u>
<u>#3</u>	<u>360.</u>
<u>#4</u>	<u>760</u>
<u>#5</u>	<u>300</u>
<u>#6</u>	<u>540</u>
<u>#7</u>	<u>420</u>
<u>#8</u>	<u>1380</u>
<u>TOTAL</u>	<u>\$ 5540.</u>

Approved: Lorin P. Nielsen Date: 2/6/85  
 (Signature of Conference Officer)

This assessment has been set as a result of an informal conference held by the assessment officer. Should the Company desire a review in a more formal proceeding before the Board of Oil, Gas & Mining, a hearing can be requested within 15 days of receipt of this report.

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N84-4-8-8Violation 1 of 8

- (a) Nature of violation: Failure to mine in accordance with approved plan.
- (b) Date of termination: 7-13-84

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>18</u>	<u>18</u>
Extent of Damage	<u>20</u>	<u>20</u>
(2) Obstr. to Enforcement	<u>          </u>	<u>          </u>
(c) Negligence	<u>20</u>	<u>20</u>
(d) Good Faith	<u>0</u>	<u>          </u>
(e) Acreage	<u>          </u>	<u>          </u>
TOTAL	<u>65</u>	<u>65</u>

## 3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

On March 29, 1979, DOGM wrote U. S. Fuel requiring riprap. U. S. Fuel's response of June 11, 1979, to OSM review finding of inadequate information stated among others at the diversion channel would have stability and capacity at least equal to upstream and downstream channels. 2. The diversion would pass to 100 year 24 hour precipitation event. 3. The diversion would contain naturally occurring cobbles and large boulders which "should provide adequate riprap protection. 4. Corps of Engineers permits do not require riprap. August 24, 1979 letter from OSM to operator affirmed riprap requirements of 3-29-79 letter. Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N84-4-8-8Violation 2 of 8(a) Nature of violation: Failure to pass disturbed area drainage through sediment pond, to prevent additional contributions of suspended solids to stream-flow outside permit area.(b) Date of termination: August 17, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>0</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>14</u>	<u>          </u>
Extent of Damage	<u>23</u>	<u>          </u>
(2) Obstr. to Enforcement	<u>          </u>	<u>          </u>
(c) Negligence	<u>20</u>	<u>          </u>
(d) Good Faith	<u>0</u>	<u>          </u>
(e) Acreage	<u>          </u>	<u>          </u>
TOTAL	<u>64</u>	<u>0</u>

## 3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

Drainage comes from road only. No other upstream area disturbed, thus UMC 817.42 (a)(4) applies and thus drainage is excluded from disturbed area. Vacate both NOV and penalty.

ASSESSMENT CONFERENCE REPORT  
(continued)

1. Notice of Violation/Cessation Order No. N84-4-8-8

Violation 3 of 8

- (a) Nature of violation: Failure to pass all disturbed area drainage through sediment pond.  
 (b) Date of termination: May 21, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>6</u>	<u>6</u>
Extent of Damage	<u>8</u>	<u>8</u>
(2) Obstr. to Enforcement	<u>        </u>	<u>        </u>
(c) Negligence	<u>20</u>	<u>10</u>
(d) Good Faith	<u>-3</u>	<u>-3</u>
(e) Acreage	<u>        </u>	<u>        </u>
TOTAL	<u>38</u>	<u>38</u>

3. Narrative:  
 (Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: Affirmed  
Probability: Affirmed  
Extent: Affirmed  
Negligence: Assessed as lack of diligence. Assign 10 points.  
Good Faith: Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N84-4-8-8Violation 4 of 8(a) Nature of violation: Failure to place and store noncoal waste properly. Failure to pass disturbed area runoff through sediment pond.(b) Date of termination: June 28, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>7</u>	<u>7</u>
Extent of Damage	<u>5</u>	<u>5</u>
(2) Obstr. to Enforcement	<u>      </u>	<u>      </u>
(c) Negligence	<u>25</u>	<u>25</u>
(d) Good Faith	<u>0</u>	<u>0</u>
(e) Acreage	<u>      </u>	<u>      </u>
TOTAL	<u>44</u>	<u>44</u>

## 3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: AffirmedProbability: AffirmedExtent: AffirmedNegligence: Waste plan approved 2-10-82. Operator had been moving noncoal waste from the area since that time. AffirmedGood Faith: Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)

1. Notice of Violation/Cessation Order No. N84-4-8-8

Violation 5 of 8

(a) Nature of violation: Failure to prevent short circuiting.

(b) Date of termination: \_\_\_\_\_

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>10</u>	<u>10</u>
Extent of Damage	<u>8</u>	<u>8</u>
(2) Obstr. to Enforcement	<u>        </u>	<u>        </u>
(c) Negligence	<u>20</u>	<u>20</u>
(d) Good Faith	<u>-20</u>	<u>-20</u>
(e) Acreage	<u>        </u>	<u>        </u>
TOTAL	<u>25</u>	<u>25</u>

3. Narrative:  
(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: Affirmed  
Probability: Affirmed  
Extent: Affirmed  
Negligence: Regular sediment pond inspections should have disclosed.  
 Affirmed  
Good Faith: Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N 84-4-8-8Violation 6 of 8

- (a) Nature of violation: Failure to pass all disturbed area runoff from sediment pond. Failure to design construct, maintain sediment control measures
- (b) Date of termination: June 28, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>8</u>	<u>8</u>
Extent of Damage	<u>12</u>	<u>12</u>
(2) Obstr. to Enforcement	<u>          </u>	<u>          </u>
(c) Negligence	<u>10</u>	<u>10</u>
(d) Good Faith	<u>0</u>	<u>0</u>
(e) Acreage	<u>          </u>	<u>          </u>
TOTAL	<u>37</u>	<u>37</u>

## 3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: Affirmed  
Probability: One of 4 sites pre-law (Area D) to be reclaimed, thus not proper for NOV. However assessment proper for remaining areas.  
Extent: Affirmed  
Negligence: Affirmed  
Good Faith: Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)1. Notice of Violation/Cessation Order No. N84-4-8-8Violation 7 of 8(a) Nature of violation: Failure to construct sediment control measures to prevent additional contributions to stream-flow outside permit area.Date of termination: June 27, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>5</u>	<u>5</u>
Extent of Damage	<u>2</u>	<u>2</u>
(2) Obstr. to Enforcement	<u>          </u>	<u>          </u>
(c) Negligence	<u>17</u>	<u>17</u>
(d) Good Faith	<u>0</u>	<u>0</u>
(e) Acreage	<u>          </u>	<u>          </u>
TOTAL	<u>31</u>	<u>31</u>

## 3. Narrative:

(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: AffirmedProbability: Vaughn Hansen report, part of MRP, specifies 42 inch culvert. Division Tech staff affirmed that 24 inch culvert not sufficient. AffirmedExtent: AffirmedNegligence: Part of MRP ignored. AffirmedGood Faith: Affirmed

ASSESSMENT CONFERENCE REPORT  
(continued)

1. Notice of Violation/Cessation Order No. N84-4-8-8

Violation 8 of 8

- (a) Nature of violation: Failure to conduct operations to prevent additional suspended solids. Failure to design and construct class I road properly.
- (b) Date of termination: July 13, 1984

2. Conference Result	<u>Proposed Assessment</u>	<u>Conference Assessment</u>
(a) History/Prev. Vio.	<u>7</u>	<u>7</u>
(b) Seriousness		
(1) Probability of Occurrence	<u>20</u>	<u>20</u>
Extent of Damage	<u>23</u>	<u>21</u>
(2) Obstr. to Enforcement	<u>          </u>	<u>          </u>
(c) Negligence	<u>12</u>	<u>12</u>
(d) Good Faith	<u>          </u>	<u>          </u>
(e) Acreage	<u>          </u>	<u>          </u>
TOTAL	<u>62</u>	<u>60</u>

3. Narrative:  
(Brief explanation of reasons for any changes made in assignment of points and any additional information that was presented at the conference.)

History: Affirmed

Probability: DOGM Tech staff says that coal fines could not be taken out of runoff to stream, short of a treatment plant. Thus not factor in assessment. Problems is outslope erosion from culverts, runoff not occurring from road, but natural drainage from area above road. Thus UMC 817.153 (c)(2) does not apply. Outslope erosion must be controlled to prevent drainage 817.52 (d)(2). Operator acknowledges erosion damage. Assessed as occurred

Extent: Duration unknown, damage to stream from erosion. Assess at 21

Good Faith: Affirmed