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File

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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March 20, 1991

CERTIFIED RETURN RECEIPT
P 074 979 040

Mr. Bob Eccli
U.S. Fuel Company
P.O. Box A
Hiawatha, Utah 84527

Dear Mr. Eccli:

Re: Proposed Assessment for State Violation No. N91-39-1-4, Hiawatha Complex, ACT/007/011, Folder #5, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R614-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector, Stephen J. Demczak on February 19, 1991. Rule R614-401 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 this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Within 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.

If a timely request is not made, 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

Enclosure

an equal opportunity employer

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

COMPANY/MINE U.S. Fuel Company/Hiawatha Complex NOV # N91-39-1-4

PERMIT # ACT/007/011 VIOLATION 1 OF 4

ASSESSMENT DATE 3/13/91 ASSESSMENT OFFICER Joseph C. Helfrich

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 3/13/91 EFFECTIVE ONE YEAR TO DATE 3/13/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-28-2-1	6/15/90	1

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 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?
Environmental Harm

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Unlikely

. . . PROBABILITY	RANGE
. . . None	0
. . . Unlikely	1-9
. . . Likely	10-19

. . . Occurred 20

ASSIGN PROBABILITY OF OCCURRENCE POINTS __2__

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that back to back major storm events could have resulted in excessive discharge of the pond. The probability of occurrence of which is unlikely, thus 2 points are assigned.

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 __0__

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

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) __2__

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.**

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

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 3

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to sediment control structure requirements of the regulations.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.

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)
(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 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**

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)

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

EASY OR DIFFICULT ABATEMENT? ____ **ASSIGN GOOD FAITH POINTS** __-6__

PROVIDE AN EXPLANATION OF POINTS

The permittee exercised diligence to abate the violation.

V. ASSESSMENT SUMMARY FOR N91-39-1-4 1/4

I.	TOTAL HISTORY POINTS	1
II.	TOTAL SERIOUSNESS POINTS	2
III.	TOTAL NEGLIGENCE POINTS	3
IV.	TOTAL GOOD FAITH POINTS	-6
	TOTAL ASSESSED POINTS	0
	TOTAL ASSESSED FINE	$ 0

jbe

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

COMPANY/MINE U.S. Fuel Company/Hiawatha Complex NOV # N91-39-1-4

PERMIT # ACT/007/011 VIOLATION 2 OF 4

ASSESSMENT DATE 3/13/91 ASSESSMENT OFFICER Joseph C. Helfrich

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 3/13/91 EFFECTIVE ONE YEAR TO DATE 3/13/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-28-2-1	6/16/90	1

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 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?
   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	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that the event did occur as a result of failing to maintain the five ditches referenced in the NOV.

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 5

PROVIDE AN EXPLANATION OF POINTS

Minimal

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) 25

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.**

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

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to maintenance of sediment control structures.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.

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)
(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 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

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)
(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

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N91-39-1-4 2/4

I.	TOTAL HISTORY POINTS	1
II.	TOTAL SERIOUSNESS POINTS	25
III.	TOTAL NEGLIGENCE POINTS	10
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	36
	TOTAL ASSESSED FINE	$ 520.00

jbe

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

COMPANY/MINE U.S. Fuel Company/Hiawatha Complex NOV # N91-39-1-4

PERMIT # ACT/007/011 VIOLATION 3 OF 4

ASSESSMENT DATE 3/13/91 ASSESSMENT OFFICER Joseph C. Helfrich

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 3/13/91 EFFECTIVE ONE YEAR TO DATE 3/13/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-28-2-1	6/15/90	1

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 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?
Water Pollution

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Unlikely

. . . PROBABILITY	RANGE
. . . None	0
. . . Unlikely	1-9
. . . Likely	10-19
. . . Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS __2__

PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that water pollution may occur in the event that more than one storm events occurred rendering the decant inoperable.

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 __0__

PROVIDE AN EXPLANATION OF POINTS

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) __2__

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.**

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

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to meeting the performance standards of the sediment control structure regulations.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.

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)
(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 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**

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)
(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

To be evaluated upon termination of the violation.

V. ASSESSMENT SUMMARY FOR N91-39-1-4 3/4

I.	TOTAL HISTORY POINTS	1
II.	TOTAL SERIOUSNESS POINTS	2
III.	TOTAL NEGLIGENCE POINTS	8
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	11
	TOTAL ASSESSED FINE	$ 110.00

jbe

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

COMPANY/MINE U.S. Fuel Company/Hiawatha Complex NOV # N91-39-1-4

PERMIT # ACT/007/011 VIOLATION 4 OF 4

ASSESSMENT DATE 3/13/91 ASSESSMENT OFFICER Joseph C. Helfrich

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 3/13/91 EFFECTIVE ONE YEAR TO DATE 3/13/90

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N90-28-2-1	6/15/90	1

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 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? Water Pollution

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Likely

PROBABILITY	RANGE
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS

At the time of the inspection, no information was available in the approved permit to reflect compliance with sediment control structure requirements.

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 0

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

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) 10

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.**

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

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.

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)
(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 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

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

EASY OR DIFFICULT ABATEMENT? ____ **ASSIGN GOOD FAITH POINTS** __-5__

PROVIDE AN EXPLANATION OF POINTS

The operator exercised diligence in abating the violation.

V. ASSESSMENT SUMMARY FOR N91-39-1-4 4/4

I.	TOTAL HISTORY POINTS	1
II.	TOTAL SERIOUSNESS POINTS	10
III.	TOTAL NEGLIGENCE POINTS	8
IV.	TOTAL GOOD FAITH POINTS	-5
	TOTAL ASSESSED POINTS	14
	TOTAL ASSESSED FINE	$ 140.00

jbe