

UNITED STATES FUEL COMPANY

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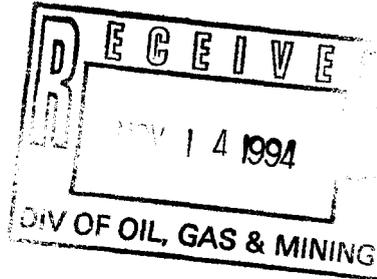


copy file
cc: V. Bailey
J. Jones
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November 8, 1994

07/011

Ms. Vicki Bailey
State of Utah
Department of Natural Resources
Division of Oil, Gas & Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, UT 84180



Dear Vicki,

Recently, U. S. Fuel received three violations as a result of a combined OSM & DOGM inspection: 94-41-6-2, 1&2 and 94-41-7-1. U. S. Fuel hereby requests an informal hearing to discuss the fact and abatements of the violations. The abatements for the violations would require U. S. Fuel to include the Utah Railway right-of-way in the disturbed area of the permit and recalculate the bond accordingly. The Utah Railway right-of-way is not and should not be included in U. S. Fuel's disturbed area.

The Utah Railway main line track and associated sidings cross the U. S. Fuel Co. permit area. The track and sidings have an associated right-of-way **which the Utah Railway controls and maintains**. The Utah Railway main line right-of-way should not be confused with the separate spur on which U. S. Fuel Co. exclusively loaded coal which is included in U. S. Fuel's disturbed area and reclamation responsibilities.

In addition to all other applicable regulations, the Utah Railway operates under the laws and regulations of the Department of Transportation and especially Interstate Commerce. Even if it wanted to, Utah Railway does not have the legal right to restrict operators from utilizing this right-of-way. Under the Interstate Commerce regulations, a common carrier must provide transportation or service upon reasonable request.

There are no silo-feed or batch-weigh train loading facilities on the southern end of the railroad. Therefore the Utah Railway has historically utilized the right-of-way as a loading area for various coal companies in the region. Currently the right-of-way is being utilized by Starpoint Fuels Inc. While Starpoint Fuels Inc. is a customer of U. S. Fuel Co., Starpoint Fuels Inc. is not in any way related to U. S. Fuel Co. Starpoint Fuels has purchased some pond fines and/or pad coal from U. S. Fuel Co. for blending with other coal (also purchased by Starpoint) imported to the right-of-way from COOP, Sunnyside Reclamation, or others.

First, U. S. Fuel cannot be responsible for a property over which it has no authority or control. U. S. Fuel does not have the right to select or police operators utilizing the loading area. U. S. Fuel does not have the right-of-access to maintain the hydrologic or any other controls. Therefore, it is not practical or reasonable to expect U. S. Fuel to accept the

environmental liability and responsibility for this site.

Second, no one connected with U. S. Fuel has operated the screening or crushing facility on the Utah Railway property. However, the language within the permit amendment submitted September 1, 1993 to allow for a portable screening plant could be misunderstood in its portrayal of the right-of-way situation. Nonetheless, the amendment, as approved by the Division, clearly specified no increase in the size of the disturbed area or revision in the reclamation costs would be necessary. As with any misunderstanding of the permit, a clarification has been submitted.

Finally, U. S. Fuel Company did not lease or buy the screening plant. U. S. Fuel has no interest in the screening plant, no interest in the right-of-way and no employees participating in the alleged screening activity. I have never seen the screening plant in operation and (I speculate) nor have your agents. Several questions must be answered: has a violation occurred?; is U. S. Fuel the responsible party?; are the abatements reasonable and proper?

In reality, no environmental damage has been done. These proposed violations are purely technical in nature. The Utah Railway right-of-way has been a coal loading area for almost a century and will continue to be a coal loading area, probably long after U. S. Fuel Co. ceases to exist. If the alleged screening took place, then it had to be negligible and in an area already covered with coal.

For all the above reasons, an informal hearing is imperative so that these issues may be resolved. The abatement date for these violations is November 17, 1994. Please note our new phone number (801) 472-3408.

Sincerely,



*Michael P. Watson
President*