

BEFORE THE DIVISION OF OIL GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

CHRON

2/2/95

ACT/007/011

1995 Inspection

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IN THE MATTER OF THE APPEAL : FINDINGS, CONCLUSIONS
OF FACTS OF VIOLATION N94-41-6-2, AND ORDER
PARTS 1 AND 2, N94-41-7-1, :
U.S. FUEL COMPANY :
: CAUSE NO. ACT/007/011

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On December 15, 1994, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the facts of violation issued to U.S. Fuel Company for the above-referenced Notices of Violation ("NOVs"). The following individuals attended:

Presiding: James W. Carter,
Director

Petitioner: Mike Watson

Division: Joe Helfrich,
Assessment Officer

Paul Baker

Board: Ron Daniels,
Assessment Conference Officer

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal hearing, and on information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. The Assessment Conference, to review the proposed penalties for NOV N94-41-6-2 and N94-41-7-1 was held immediately following this informal hearing regarding fact of violation. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.

3. NOV N94-41-6-2 part 1 was issued for "Failure to identify persons that own or control mining and reclamation operations within the permit area." NOV N94-41-6-2 part 2 was issued for "Failure to provide maps depicting the boundaries of all areas affected by coal mining and reclamation operations, including coal storage, cleaning, and loading areas." NOV N94-41-7-1 was issued for "Failure to submit bond for all land upon which coal mining and reclamation operations are occurring.

4. Both NOVs arose out of the observation by a Division inspector that parties other than the operator appeared to have been conducting coal sorting and loading activities within U.S. Fuel Company's permit on a railroad right-of-way not owned by U.S. Fuel Company.

5. Although Chapter 5 of U.S. Fuel Company's permit contemplates coal processing and loading within the right-of-way area, the permit does not contain the information needed to allow those activities in the right-of-way.

6. The required abatements include providing ownership and control information for the parties conducting the sorting and loading activities, submitting maps showing the location and extent of the activities, and providing reclamation

bond calculations for the activities, in contemplation of the continuation of those activities.

7. U.S. Fuel has indicated that it does not wish to allow the continuation of the coal sorting and loading activities in question, and that it will immediately cause the cessation of such activities.

CONCLUSIONS OF LAW

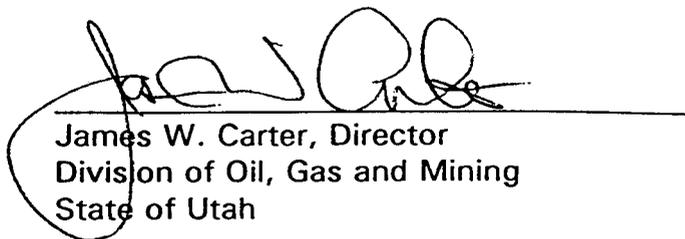
1. U.S. Fuel allowed mining and reclamation activities within its permit area in a manner inconsistent with and in violation of its permit.

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N94-41-6-2, parts 1 and 2, and NOV N94-41-7-1 are upheld.
2. The finalized assessment resulting from the Assessment Conference of December 15, 1994, is due and payable to the Division 30 days from the date of this Order.
3. The abatement required in NOVs N94-41-6-2, parts 1 and 2, and N94-41-7-1 is modified to require U.S. Fuel to immediately cease all mining activities in the railroad right-of-way inconsistent with the approved mine plan, and to immediately commence reclamation of the affected areas.
4. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this 2nd day of February 1995.



James W. Carter, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER for Cause No. ACT/007/011 to be mailed by certified mail, postage prepaid, on the 2nd day of February 1995, to the following:

Mike Watson, President
U.S. Fuel Company
P.O. Box 887
Price, Utah 84501

