

0016



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
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Ted Stewart  
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Salt Lake City, Utah 84180-1203  
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Orig  
AG# 1007/011  
#5

May 19, 1995

CERTIFIED RETURN RECEIPT  
P 074 976 198

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

Re: Proposed Assessment for State Violation No. N94-41-6-2, U.S. Fuel Company, Hiawatha Mine, ACT/007/011, Folder #5, Carbon County, Utah

Dear Mr. Watson:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Paul Baker on September 6, 1994. Rule R645-401-600 et. sec. 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 the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there is one informal appeal option available to you:

1. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter.

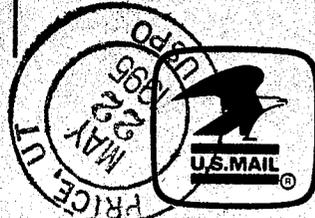


UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

- Print your name, address and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
  - Attach to front of article if space permits, otherwise affix to back of article.
  - Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE, \$300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH  
 NATURAL RESOURCES  
 OIL, GAS, & MINING  
 3 TRIAD CENTER, SUITE 350  
 SALT LAKE CITY, UTAH 84180-1203

BB DOGM ACT/007/011 FLD 5 5/19/95 N94-41-6-2

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

Show to whom delivered, date, and addressee's address.     Restricted Delivery (Extra charge)

3. Article Addressed to:  
**MIKE WATSON  
 US FUEL CO  
 PO BOX 887  
 PRICE UT 84501**

4. Article Number  
**P074 976 198**

Type of Service:  
 Registered     Insured  
 Certified     COD  
 Express Mail     Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address  
 X

6. Signature - Agent  
 X *W. Sample*

7. Date of Delivery  
**MAY 22 1995**

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 \* U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

BB DOGM ACT/007/011 FLD 5 5/19/95 N94-41-6-2

P 074 976 198

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED NOT FOR INTERNATIONAL MAIL

(See Reverse)

MIKE WATSON  
 US FUEL CO  
 PO BOX 887  
 PRICE UT 84501  
 P.O. State and ZIP Code

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom Date, and Address of Delivery	
TOTAL Postage and Fees	2.75
Postmark to Date	

PS Form 3800, June 1985

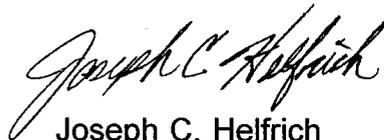
STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post-office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.    \* U.S.G.P.O. 1988-217-132

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N94-41-6-2  
ACT/007/011  
May 19, 1995

**If a timely request for review 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

blb  
Enclosure  
cc: Donna Griffin, OSM

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

COMPANY/MINE U.S. Fuel Company/Hiawatha Mine

NOV #N94-41-6-2

PERMIT # ACT/007/011

VIOLATION 1 OF 2

ASSESSMENT DATE 05/16/95

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 05/16/95

EFFECTIVE ONE YEAR TO DATE 05/16/94

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N94-41-5-6 1/6</u>	<u>04/23/95</u>	<u>1</u>
<u>2/6,3/6,4/6,5/6,6/6</u>	<u>04/23/95</u>	<u>5</u>
<u>N94-46-3-2 1/2</u>	<u>04/23/95</u>	<u>1</u>
<u>2/2</u>	<u>04/23/95</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 8

**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? B

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?

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

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

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** \_\_\_

PROVIDE AN EXPLANATION OF POINTS

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** 12

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS** 12

PROVIDE AN EXPLANATION OF POINTS

The Hiawatha mining and reclamation plan indicates that U.S. Fuels customers may utilize the portable screening, crushing, or blending facility within the Hiawatha permit area. One of U.S. Fuels customers has apparently conducted these operations, but the Division did not have ownership and control information for this customer. Without this

information the division could not determine if the customers operation should be allowed under the auspices of the applicant violator system.

**TOTAL SERIOUSNESS POINTS (A or B) 12**

**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**

On September 3, 1993, the Division approved an amendment allowing U.S. Fuels customers to process coal within there permit area. Although the operator must accept the responsibility for not including ownership and control information in the plan the Division reviewed the plan and approved it without requiring the additional ownership and control information.

**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**     -10    

PROVIDE AN EXPLANATION OF POINTS

Diligence exercised in abating the violation in lieu of legal constraints.

**V. ASSESSMENT SUMMARY FOR** \_\_\_\_\_

I.	TOTAL HISTORY POINTS	<u>    8    </u>
II.	TOTAL SERIOUSNESS POINTS	<u>   12   </u>
III.	TOTAL NEGLIGENCE POINTS	<u>    8    </u>
IV.	TOTAL GOOD FAITH POINTS	<u>   -10   </u>
	TOTAL ASSESSED POINTS	<u>   18   </u>
	TOTAL ASSESSED FINE	<u>  \$ 180.00  </u>

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

COMPANY/MINE U.S. Fuel Company/Hiawatha Mine

NOV #N94-41-6-2

PERMIT # ACT/007/011

VIOLATION 2 OF 2

ASSESSMENT DATE 05/16/95

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 05/16/95

EFFECTIVE ONE YEAR TO DATE 05/16/94

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N94-41-5-6 1/6</u>	<u>04/23/95</u>	<u>1</u>
<u>2/6,3/6,4/6,5/6,6/6</u>	<u>04/23/95</u>	<u>5</u>
<u>N94-46-3-2 1/2</u>	<u>04/23/95</u>	<u>1</u>
<u>2/2</u>	<u>04/23/95</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 8

**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? B

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?

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

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

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** 0

PROVIDE AN EXPLANATION OF POINTS

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? Actual

RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS** 12

PROVIDE AN EXPLANATION OF POINTS

The facilities maps did not accurately reflect areas being used for coal mining and reclamation operations. It was therefore, impossible to determine exactly where within U.S. Fuels permit area these operations could be conducted.

**TOTAL SERIOUSNESS POINTS (A or B)** 12

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

It appeared as though the operator did not think the land being used for coal processing activities needed to be included in the disturbed area. September 3, 1993, the Division approved an amendment allowing U.S. Fuels customers to process coal in U.S. Fuels permit area, but outside their disturbed area. If the operator had realized that the recently approved amendment would require them to include part of the Utah Railway right of way within their permit area, they would have taken an alternate permitting approach.

**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**     -10    

PROVIDE AN EXPLANATION OF POINTS

Diligence was exercised in abating the violation.

**V. ASSESSMENT SUMMARY FOR**

I.	TOTAL HISTORY POINTS	<u>    8    </u>
II.	TOTAL SERIOUSNESS POINTS	<u>   12   </u>
III.	TOTAL NEGLIGENCE POINTS	<u>    8    </u>
IV.	TOTAL GOOD FAITH POINTS	<u>   -10   </u>
	TOTAL ASSESSED POINTS	<u>   18   </u>
	TOTAL ASSESSED FINE	<u>  \$ 180.00  </u>

blb