

0018



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

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

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801-538-5340
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801-538-5319 (TDD)

March 29, 1995

CERTIFIED RETURN RECEIPT
P 074 976 186

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

Re: Reassessment for State Violation No. N94-46-3-2, 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 reassessed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Pete Hess on November 7, 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 are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt



BB DUGM AGL/00/011 N24-41-1-1 2122130

● **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 boxes for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:

MIKE WATSON PRESIDENT
US FUEL CO
PO BOX 887
PRICE UT 84501

4. Article Number
074 976 199

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 *M. Watson*

7. Date of Delivery
5/26/85

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

PS Form 3800, June 1985

ACCOUNT 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	6
	Certified Fee	
	Special Delivery Fee	
	Restricted Delivery Fee	
	Return Receipt showing to whom and Date Delivered	
	Return Receipt showing Date and Address	
	TOTAL Postage and Fees	6
Postmark or Date DNR DUGM		

Stamp: SALT LAKE CITY, UT MAIN OFFICE MAY 22 1985



PENALTY FOR PRIVATE USE, \$300

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.

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

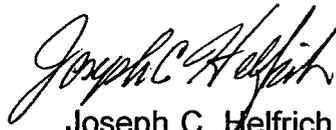
- BACK PLEASE STAYS TO ARTICLE TO COVER FIRST CLASS POSTAGE, POSTAGE PAID, AND CHARGES FOR ANY SELECTED SPECIAL SERVICES. (See page)**
1. If you want this receipt unmarked, enter the quantity due to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your agent carrier. (An extra charge)
 2. If you do not want this receipt premarked, check the quantity due to the right of the return address of the article, date, check and retain the receipt, and mail the article.
 3. If you want a return receipt, with the certified mail number and your name and address on a return receipt card, Form 3811, and attach to the front of the article by means of the provided ends of a paper strip. Cut along the strip 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 individual agent of the addressee, endorse "RESTRICTED DELIVERY" next to front of the article.
 5. Prior to use 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. See this receipt and receipt for your agent carrier.

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ACT/007/011
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of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, 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 Co/Hiawatha

NOV #N94-46-3-2

PERMIT # ACT/007/011

VIOLATION 2 OF 2

ASSESSMENT DATE 2/22/95

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 2/22/95

EFFECTIVE ONE YEAR TO DATE 2/22/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

—

—

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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 0

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? A

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Conducting activities without appropriate approvals, environmental harm and water pollution.

- 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 20

PROVIDE AN EXPLANATION OF POINTS

Underground development waste has been stored in an area authorized for non-coal waste.

- 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

At the time of inspection no damage had occurred as a result of the violation. According to the inspectors report potential damage had existed for a number of years, in that spontaneous combustion was a potential problem as well as the proximity of area to dry vegetation being a fire hazard.

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 0

PROVIDE AN EXPLANATION OF POINTS

—

TOTAL SERIOUSNESS POINTS (A or B) 20

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 Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

According to the permittee representative the area was previously used as a temporary underground development waste storage area. He surmised that the waste was put there prior tot he passage of the environmental reclamation act. According to figure 4 of the approved mining and reclamation plan the area has been classified as a non-coal waste storage area for at least two and a half years.

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 NOV prior to the abatement deadline. The operator did have resources available to achieve the prescribed abatement requirements and no plans were required by this notice of violation.

V. **ASSESSMENT SUMMARY FOR** _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>20</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>30</u>
	TOTAL ASSESSED FINE	<u>\$ 400.00</u>

blb