

0019



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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

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Division Director

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Salt Lake City, Utah 84180-1203
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801-538-5319 (TDD)

March 3, 1995

CERTIFIED RETURN RECEIPT
P 074 976 175

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

Re: Proposed Assessment for State Violation No. N94-41-5-6, U.S. Fuel Co.,
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 20, 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



P 074 976 175

BB DOGM 3/3/95 ACT/007/011 N 94-41-5-6 FLD 5

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



367

BB DOGM 3/3/95 ACT/007/011 N 94-41-5-6 FLD 5

SENDER: Complete items 1 and 2 when additional services are requested, 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.

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

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

4. Article Number
P 074 976 175

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 *T. Samples*

7. Date of Delivery
03-08-95

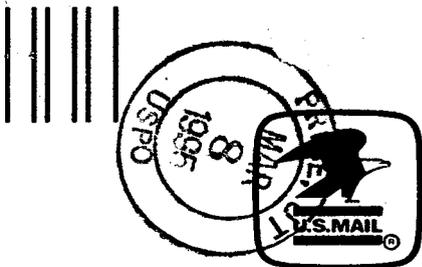
8. Addressee's Address (ONLY if requested and fee paid)

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

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.

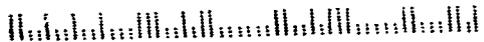


PENALTY FOR PRIVATE USE, \$300

RETURN TO

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

DIVISION OF OIL GAS AND MINING
 355 W NORTH TEMPLE
 3 TRIAD CENTER STE 350
 SALT LAKE CITY UT 84180

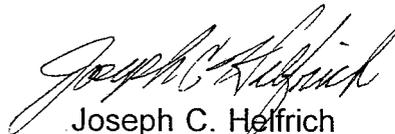


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ACT/007/011
March 3, 1995

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 Griffen, OSM

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

COMPANY/MINE U.S. Fuel Co/Hiawatha

NOV #N94-41-5-6

PERMIT # ACT/007/011

VIOLATION 1 OF 6

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

0

0

0

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?
Loss of reclamation /revegetation potential.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? The operator had approval to

excavate up to four feet of topsoil from borrow area F. Instead, the Operator was borrowing up to approximately fifteen feet of soil material.

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

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

The laboratory results indicated that the material from below four feet would not adversely affect the plant growth. The chemical and physical characteristics were similar to the soil form above four feet.

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 Ordinary Negligence.

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

The Operator had been careful to adhere to some of the permit requirements such as removing coal fines before salvaging topsoil and installing appropriate sediment control structures. However, the operator should have been more cognizant of how much soil the equipment operators were actually harvesting. There is a marked volumetric difference between four feet and fifteen feet.

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

In order to comply with the abatement requirements the Operator merely had to stop harvesting topsoil from below the four foot level.

The abatement additionally required taking soil samples and having them analyzed. Lab analysis was not in the operators control. This analysis was subsequently preformed and the NOV was terminated effective October 28, 1994.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>20</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>28</u>
	TOTAL ASSESSED FINE	<u>\$ 360.00</u>

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

COMPANY/MINE U.S. Fuel Co/Hiawatha

NOV #N94-41-5-6

PERMIT # ACT/007/011

VIOLATION 2 OF 6

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

0

—

0

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? 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 ___

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 12

PROVIDE AN EXPLANATION OF POINTS

The operator did not submit copies of the amendment for distribution to other agencies and did not exchange page numbers on pages in the amendment to correspond with the existing mining and reclamation plan. The Division had a copy of the plan and inspection was not hindered at the time of the inspection. However, the OSM inspector was completely unaware of the amendment and did not know what the requirements of

the plan were. In addition both the OSM and DOGM inspector could not find a copy of the finalized amendment in the operators file.

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 Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS

It appeared as though the operator just didn't pay close enough attention to the approval letter or that he forgot about the requisite stipulation. Permittee was in violation of a specific permit condition that being a requirement to submit extra copies for other agencies and to change page numbers which was a condition of the approval of the alternate topsoil borrow area amendment. Thus a greater degree of negligence is assessed.

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** -8

PROVIDE AN EXPLANATION OF POINTS

Even though additional time was requested to facilitate proper abatement of the NOV the permittee exercised diligence in meeting the abatement requirements making requisite changes and copies of the approved MRP.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u> 0 </u>
II.	TOTAL SERIOUSNESS POINTS	<u> 12 </u>
III.	TOTAL NEGLIGENCE POINTS	<u> 20 </u>

IV.	TOTAL GOOD FAITH POINTS	<u>-8</u>
	TOTAL ASSESSED POINTS	<u>24</u>
	TOTAL ASSESSED FINE	<u>\$ 280.00</u>

blb

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

COMPANY/MINE U. S. Fuel Co/Hiawatha

NOV #N94-41-5-6

PERMIT # ACT/007/011

VIOLATION 3 OF 6

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

0

—

0

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?
Water Pollution

- 2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? Did not occur.

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

There is little or no likleyhood of any environmental damage occurring because of this violation. Even if the ditch continued to erode it would be nearly impossible for it to fail and for water from disturbed areas to enter Miller Creek.

- 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 0

PROVIDE AN EXPLANATION OF POINTS

—

TOTAL SERIOUSNESS POINTS (A or B) 0

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

The ditch was eroded enough that the operator should have discovered it if the area was being inspected on a regular basis. However, it is the kind of thing that might have been neglected due to the lack of any potential damage to the environment. The operator normally grades ditches once or twice a year. They probably would have fixed the problem during this routine maintenance.

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

The operator complied within the abatement and as subsequently extended to November 4, 1994 the effective date of the abatement was November 2, 1994.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>0</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>8</u>
	TOTAL ASSESSED FINE	<u>\$ 80.00</u>

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

COMPANY/MINE U. S. Fuel Co/Hiawatha

NOV #N94-41-5-6

PERMIT # ACT/007/011

VIOLATION 4 OF 6

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

0

—

0

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? 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?

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 operator did not submit certified designs for several catch basins and has not been inspecting them. Thus did not allow full evaluation of the pond conditions there was no indication that this actually led to any danger to the public or the environment.

There are seven catch basis and the mining and reclamation plan contains designs for five of them. The designs for one of these is certified. The designs all call for total containment runoff form the 10 year, 24 hour precipitation event. The regulations require that total containment ponds be able to totally contain the runoff on the 100 year, 6 hour event. In this case, the 10 year, 24 hour storm is larger than the 100 year, 6 hour storm.

Of the two impoundments that did not have designs one has a dam about one foot high and potentially impounds a total of about 150 cubic feet of water. The other actually looks like a sediment pond; It has a riprap inlet and emergency spillway, and the dam is probably about 6 feet high. However, the state and federal inspectors were unsure as to what disturbance was associated with this pond.

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 No Negligence.

ASSIGN NEGLIGENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

Similar violations have been sited in the past (N91-39-7-2, and N91-39-1-4). However the inspector did not consider this violation the be the fault of the operators plan. The plan submitted in response to the violations were reviewed and approved without being certified. The Division has had numerous opportunities to review the mining and reclamation plan and has not required these certifications. In the many years on inspecting the mine (including over sight inspections), pond inspections and certified design have never been required.

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

Abatement was complete by November 14, the required abatement date.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>12</u>
III.	TOTAL NEGLIGENCE POINTS	<u>0</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>12</u>
	TOTAL ASSESSED FINE	<u>\$ 120.00</u>

blb

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

COMPANY/MINE U.S. Fuel Co/Hiawatha

NOV #N94-41-5-6

PERMIT # ACT/007/011

VIOLATION 5 OF 6

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

0

—

0

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?
Non-Coal Waste.
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? 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) 0

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 25

PROVIDE AN EXPLANATION OF POINTS

The August inspection report mentioned lubricate containers and transformers that needed to be moved. It also said that the King 4 & 5 surface facilities area in Middle Fork was in need of general cleanup. The violation was sited in NOV N91-39-3-1.

The lubricated containers and transformers mentioned the August inspection report were moved. But I could not tell if it had been a good general clean up of King 4 & 5 mines area. Many of the buildings and other facilities had been torn down since the mines closed in 1993. There was a lot of scrap metal, pieces of conveyor belt, bags of rock dust and other trash laying around. It needed to be moved to an area designated for non-coal waste and store in a controlled manner. Such as a trash can or it needed to be disposed of permanently.

It was the inspectors impression that U. S. Fuel had been working on the problem slowly and had been fairly receptive when inspectors had mentioned specific problems such as those discussed in the August report. However, the area did need to be cleaned and a violation appeared to be the best way to get the job done.

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** -8

PROVIDE AN EXPLANATION OF POINTS

Abated by October 21, which was the required abatement date although the permittee took the full time to finish the job it was done very well according to the inspectors report. As information related to the inspector indicated that about 15 to 20 large dumpsters full of trash and scrap from the metal in South Fork Mine pads had been hauled away.

V. **ASSESSMENT SUMMARY FOR** _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>0</u>
III.	TOTAL NEGLIGENCE POINTS	<u>25</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-8</u>
	TOTAL ASSESSED POINTS	<u>17</u>
	TOTAL ASSESSED FINE	<u>\$ 170.00</u>

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

COMPANY/MINE U. S. Fuel Co/Hiawatha

NOV #N94-41-5-6

PERMIT # ACT/007/011

VIOLATION 6 OF 6

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

0

—

0

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?
Water Pollution.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? None

.... 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

No Damage

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) 0

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 25

PROVIDE AN EXPLANATION OF POINTS

The permittee had been sited a similar violation in the past under the auspices of violation N91-39-7-2 2/2 which was written as a result of the erosion occurring at the inlets to sediment ponds 1,3,4 & 8.

The inlets to ponds 4 & 7 were eroding and were not stable. Inlet to pond #4 was about three feet below the original inlet depth and was about two and a half feet wide. The inlet to pond 7 was eroded down to one foot from the original depth. Both of these inlets appeared to have had riprap erosion protection but it was gone.

The plan did not contain designs for the pond inlets as result there was no design against which to inspect. Erosion was not noted in the second quarter pond inspections; Mr. Gray mentioned a fairly intense storm in the later part of August, where this damage may have resulted. Since the third quarter inspections have not been done yet the operator was probably not aware of the problem.

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** -8

PROVIDE AN EXPLANATION OF POINTS

The operator exercised diligence in complying with the abatement during the later half of the abatement.

V. ASSESSMENT SUMMARY FOR _____

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>0</u>
III.	TOTAL NEGLIGENCE POINTS	<u>25</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-8</u>
	TOTAL ASSESSED POINTS	<u>17</u>
	TOTAL ASSESSED FINE	<u>\$ 170.00</u>

blb