

0020



**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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March 2, 1995

CERTIFIED RETURN RECEIPT  
P 074 976 168

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

Re: Proposed Assessment for State Violation No. 94-46-3-2, 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 proposed 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.



P 074 976 168

BB DOGM ACT/007/011 N94-46-3-2 3/2/95 FLD #5

MICHEAL WATSON PRESIDENT  
US FUEL COMPANY  
PO BOX 887  
PRICE UT 84501

PS Form 3800 Jan 88

Postage

**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. (Extra charge) 2.  Restricted Delivery (Extra charge)

3. Article Addressed to:  
MICHEAL WATSON PRESIDENT  
U. S. FUEL COMPANY  
PO BOX 887  
PRICE UT 84501

4. Article Number  
P 074 976 168

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 *Examples*

7. Date of Delivery  
MAR 6 - 1995

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

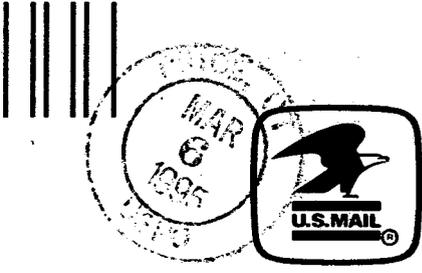
PS Form 3811, mar. 1988 \* U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

2.75

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 WEST NORTH TEMPLE  
TRIAD 3 CENTER STE 350  
SALT LAKE CITY UT 84180

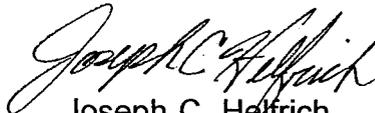
Faint vertical text on the right side of the page, likely a return address or recipient information, mostly illegible due to fading.

Page 2  
94-46-3-2  
ACT/007/011  
March 2, 1995

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 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. Heinrich  
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 1 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

— — —

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?  
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 0

PROVIDE AN EXPLANATION OF POINTS

The area referenced by the NOV reports to a sediment pond.

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 noticeable 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) \_\_\_\_\_

**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 received prior warning of the areas by the undersigned inspector. Due to the fact that the permittee was already under notice for non-coal waste for much of the disturbed area, a second similar violation was not issued. Permittee was fully aware that this inspector conveyed the need to have the soil cleaned up, but appeared to have ignored the inspectors request.

**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 -5

PROVIDE AN EXPLANATION OF POINTS

Inspector was notified by phone of completion of abatement on November 1, 1994.

**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>-5</u>
	TOTAL ASSESSED POINTS	<u>20</u>
	TOTAL ASSESSED FINE	<u>\$ 200.00</u>

blb

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

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 \_\_\_

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 to the 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.	<u>TOTAL HISTORY POINTS</u>	<u>0</u>
II.	<u>TOTAL SERIOUSNESS POINTS</u>	<u>20</u>
III.	<u>TOTAL NEGLIGENCE POINTS</u>	<u>20</u>
IV.	<u>TOTAL GOOD FAITH POINTS</u>	<u>-10</u>
	 <u>TOTAL ASSESSED POINTS</u>	 <u>10</u>
	 <u>TOTAL ASSESSED FINE</u>	 <u>\$ 100.00</u>