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

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January 3, 1996

CERTIFIED RETURN RECEIPT
P 074 979 422

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

Re: Proposed Assessment for State Violation No. #N-95-46-2-1, United States Fuel Company / Hiawatha Mine ACT/007/011-95B, 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, Peter Hess on June 29, 1995. 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 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

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Enclosure
cc: James Fulton, OSM

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WORKSHEET FOR ASSESSMENT OF PENALTIES

UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE United States Fuel Company / Hiawatha Mine **NOV** #N-95-46-2-1

PERMIT # ACT/007/011 VIOLATION 1 OF 1

ASSESSMENT DATE 12/19/95 ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

A. Are there any previous violations which are not pending or vacated, which fall within one year of today's date?

ASSESSMENT DATE 12/19/95 EFFECTIVE ONE YEAR TO DATE 12/19/94

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
—	—	—

One point, for each past violation, up to one year.
Five points, for each past violation in a CO, up to one year.
No pending notices will 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? Event

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? Occurred

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS
The permittee had continued to discharge mine water that exceeded the allowable limits for TDS for the approved UPDES permit UT0023094.

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 5

PROVIDE AN EXPLANATION OF POINTS
Environmental damage could not be quantified in this instance. However, the permittee had been exceedence of the approved discharge permit from August 94 to June of 95. The exceedence would extend off of the disturbed area as well as the permit area.

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) 25

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, lacks 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 15

PROVIDE AN EXPLANATION OF POINTS
The violation occurred as a result of lack of diligence and reasonable care with respect to the exceeded level to the approved UPDES discharge permit.

IV. GOOD FAITH MAX 20 PTS. (EITHER A OR B) (Does not apply to violations requiring any abatement measures.)

A. Did the operator have the onsite 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
(The operator complied within the abatement period required)
(The 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 first or second half of the 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***
(Operators 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

Abatement was accomplished within the abatement period.

V. ASSESSMENT SUMMARY FOR N-95-46-2-1

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	25
III.	TOTAL NEGLIGENCE POINTS	15
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	40
	TOTAL ASSESSED FINE	**$ 600.00**

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