

0013



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

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January 09, 1996

CERTIFIED RETURN RECEIPT
P 074 979 025

Danny Matingly
General Manager
P. O. Box 10
East Carbon, Utah 84520

Re: Proposed Assessment for State Violation No. N95-26-3-1, Synnyside Cogeneration Associates, Sunnyside Refuse/Slurry Mine, ACT/007/035, Folder #5, Carbon County, Utah

Dear Mr. Matingly:

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, William Malencik on November 9, 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:

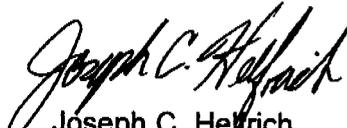
1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding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



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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. Hellrich
Assessment Officer

mt
Enclosure
cc: James Fulton, OSM
a:007035.pal

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

COMPANY/MINE Sunnyside Cogeneration Associates / Sunnyside Refuse/Slurry **NOV #**N-95-26-3-1

PERMIT # ACT/007/035

VIOLATION 1 **OF** 1

ASSESSMENT DATE 01/04/96

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 01/04/96

EFFECTIVE ONE YEAR TO DATE 01/04/95

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

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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? Hindrance

A. Event Violations Max 45 PTS

- What is the event which the violated standard was designed to prevent?
- 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? 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 permittee had failed to perform water monitoring for the third quarter here in 1995 on five stations in accordance with the Utah Coal rules and the mines reclamation plan.

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 Ordinary Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of deligence with respect to water monitoring requirements.