0013

File

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

October 31, 1985

CERTIFIED RETURN RECEIPT REQUESTED
P 001 721 220

Mr. D. W. Jense
Utah Power and Light Company
P O Box 899
Salt Lake City, Utah 84110

Dear Mr. Jense:

RE: Proposed Assessment for State Violation No. N85-2-20-1, ACT/015/018, Folder #8, Emery County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under UMC/SMC 845.11-845.17.

Enclosed is the proposed civil penalty assessment for the above referenced violation. This violation was issued by Division Inspector Sandy Pruitt on September 12, 1985. Rule UMC/SMC 845.2 et seq. has been utilized to formulate the proposed penalty. By these rules, any written information submitted by you or your agent within 15 days of receipt of this notice of violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Within fifteen (15) days after receipt of this proposed assessment, you or your agent may file a written request for an assessment conference to review the proposed penalty. (Address a request for a conference to Ms. Jan Brown at the above address.) If no timely request is made, all pertinent data will be reviewed and the penalty will be reassessed, if necessary, for a finalized assessment. Facts will then be considered which were not available on the date of the proposed assessment due to the length of the abatement period. This assessment does not constitute a request for payment.

Sincerely,

Mike Earl

Mike Earl
Assessment Officer

re
Enclosure
cc: D. Griffin
73140

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

COMPANY/MINE UP&L/Deer Creek NOV # N85-2-20-1

PERMIT # ACT/015/018 VIOLATION 1 OF 1

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 10-25-85 EFFECTIVE ONE YEAR DATE 10-26-84

| PREVIOUS VIOLATIONS | EFF.DATE | PTS | PREVIOUS VIOLATIONS | EFF.DATE | PTS |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |

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 violation falls. Beginning at the mid-point of the category, the AO 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?

| PROBABILITY | RANGE | MID-POINT |
|---|---|---|
| None | 0 | |
| Insignificant | 1-4 | 2 |
| Unlikely | 5-9 | 7 |
| Likely | 10-14 | 12 |
| Occurred | 15-20 | 17 |

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS Per inspector statement runoff bypassed sediment control measures and blocked drains allowed runoff to flow through the disturbed area.

3. Would or did the damage or impact remain within the exploration or permit area? No

| | RANGE | MID-POINT |
|---|---|---|
| Within Exp/Permit Area | 0-7* | 4 |
| Outside Exp/Permit Area | 8-25* | 16 |

*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 8

PROVIDE AN EXPLANATION OF POINTS Inspector indicates that the observed flows were small and did not cause any significant damage.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? ____

| | RANGE | MID-POINT |
|---|---|---|
| Potential hindrance | 1-12 | 7 |
| Actual hindrance | 13-25 | 19 |

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS ____

PROVIDE AN EXPLANATION OF POINTS ____

TOTAL SERIOUSNESS POINTS (A or B) 23

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.

| | | MID-POINT |
|---|---|---|
| No Negligence | 0 | |
| Negligence | 1-15 | 8 |
| Greater Degree of Fault | 16-30 | 23 |

STATE DEGREE OF NEGLIGENCE No negligence

ASSIGN NEGLIGENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS Inspector indicates no negligence involved. Operator experienced a large storm probably over a 10 year, 24 hour event.

IV. GOOD FAITH MAX -20 PTS. (either A or B)

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)

*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 SITUATION

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)

EASY OR DIFFICULT ABATEMENT? Difficult ASSIGN GOOD FAITH POINTS - 18

PROVIDE AN EXPLANATION OF POINTS Inspector indicates this was a difficult abatement situation and was abated rapidly considering the extent of the repairs necessary.

V. ASSESSMENT SUMMARY FOR N85-2-20-1

| | | |
|---|---|---|
| I. | TOTAL HISTORY POINTS | 0 |
| II. | TOTAL SERIOUSNESS POINTS | 23 |
| III. | TOTAL NEGLIGENCE POINTS | 0 |
| IV. | TOTAL GOOD FAITH POINTS | - 18 |
| | TOTAL ASSESSED POINTS | 5 |
| | TOTAL ASSESSED FINE | $ 50 |

Mike Earl

ASSESSMENT DATE 10-25-85 ASSESSMENT OFFICER Mike Earl

X PROPOSED ASSESSMENT _____ FINAL ASSESSMENT

7313Q