



0060

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Memo Dels

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

March 12, 1985

CERTIFIED RETURN RECEIPT REQUESTED
NO. 592 431 222

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

Dear Mr. Jense:

Re: Proposed and Finalized Assessment for State Violation
No. N83-7-8-1, 1 of 1, ACT/015/019, Folder No. 8,
Emery County, Utah

The civil penalty for the above-referenced violation is hereby proposed and finalized. This assessment has been finalized as a result of a review of all pertinent data and facts relative to the violation.

As you can see from the prefix of the violation, N83-7-8-1, this violation was issued quite sometime ago--October 14, 1983. Due to the Notice of Violation having never been assessed initially, and approximately 18 months having passed since issuance, I believe it is appropriate to waive the use of the formula to determine the civil penalty in this case. This waiver is based on the circumstances surrounding the violation which cause it to be demonstrably unjust to use the formula. The use of the formula would be unjust due to difficulty for staff to recall the facts of the occurrence of the violation and the occurrence of a substantive amount of emergency-response activity on the Wilberg mine site. This emergency activity is a result of the Wilberg Mine disaster, and it is anticipated that the subject area of the violation may have been obliterated. The mine surface facilities are still under Mining Safety and Health Administration (MSHA) order.

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Mr. D. W. Jense
March 12, 1985

The violation still stands as valid and you may appeal the fact of its occurrence at a hearing before the Board of Oil, Gas and Mining. If you choose this option, you should follow the applicable procedural rules for appeals to the Board.

Please let me know if you need any additional information.

Sincerely,



Ronald W. Daniels
Associate Director, Mining

jb
Attachment
cc: D. J. Griffin
B. W. Roberts
J. C. Helfrich
0190Q

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

COMPANY/MINE Utah Power & Light--Wilberg NOV # N83-7-8-1

PERMIT # ACT/015/019 VIOLATION 01 OF 01

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 March 12, 1985 EFFECTIVE ONE YEAR DATE March 12, 1984

PREVIOUS VIOLATIONS	EFF.DATE	PTS	PREVIOUS VIOLATIONS	EFF.DATE	PTS
<u>N/A</u>					

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 0*

PROVIDE AN EXPLANATION OF POINTS *See letter dated March 12, 1985

3. Would or did the damage or impact remain within the exploration or permit area?

	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 0*

PROVIDE AN EXPLANATION OF POINTS *See letter dated March 12, 1985.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? N/A

	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 0*

PROVIDE AN EXPLANATION OF POINTS *See letter dated March 12, 1985.

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.

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

STATE DEGREE OF NEGLIGENCE _____
 ASSIGN NEGLIGENCE POINTS 0*

PROVIDE AN EXPLANATION OF POINTS *See letter dated March 12, 1985.

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? N/A ASSIGN GOOD FAITH POINTS 0*

PROVIDE AN EXPLANATION OF POINTS *See letter dated March 12, 1985.

V. ASSESSMENT SUMMARY FOR N83-7-8-1

I. TOTAL HISTORY POINTS	_____
II. TOTAL SERIOUSNESS POINTS	_____
III. TOTAL NEGLIGENCE POINTS	_____
IV. TOTAL GOOD FAITH POINTS	_____
 TOTAL ASSESSED POINTS	<u> 0* </u>
 TOTAL ASSESSED FINE	<u> \$00.00 </u>

ASSESSMENT DATE March 12, 1985 ASSESSMENT OFFICER RW Dennis

 X PROPOSED ASSESSMENT X FINAL ASSESSMENT