



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

Norman H. Bangerter, Governor  
Dee C. Hansen, Executive Director  
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May 5, 1986

CERTIFIED RETURN RECEIPT REQUESTED  
NO. P 001 720 907

Mr. Ken Payne  
Southern Utah Fuel Company  
PO Box P  
Salina, Utah 84654

Dear Mr. Payne:

Re: Proposed Assessment for State Violation No. N85-6-6-1,  
ACT/041/002, Folder No. 8, Sevier 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 845.11-845.20.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. This violation was issued by Division Inspector Bart Kale on April 30, 1985. Rules UMC/SMC 845.2 et seq have been utilized to formulate the proposed penalty. By these rules, any written information submitted by you or your agent within fifteen (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. Janice Brown at the above address.)

IF A TIMELY REQUEST IS NOT MADE, 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 and mail c/o Janice Brown.

Sincerely,

*Mike Earl*

Mike Earl  
Assessment Officer

jmc  
Enclosure  
cc: D. J. Griffin  
7314Q

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

COMPANY/MINE Sufco/Convulsion Canyon NOV # N85-6-6-1  
 PERMIT # ACT/041/002 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 5/5/86 EFFECTIVE ONE YEAR DATE 5/6/85

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS
<u>N85-6-1-1</u>	<u>8/30/85</u>	<u>1</u>	<u>N85-6-7-1</u>	<u>9/13/85</u>	<u>1</u>
<u>N85-6-4-1</u>	<u>8/30/85</u>	<u>1</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 3

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? Hindrance

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? \_\_\_\_\_
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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

\_\_\_\_\_

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 \_\_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

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

	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 3

PROVIDE AN EXPLANATION OF POINTS Per inspector the operator failed to sample for oil, grease or iron during a planned decant of the sediment pond as dictated by the permit.

TOTAL SERIOUSNESS POINTS (A or B) 3

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 Negligence  
 ASSIGN NEGLIGENCE POINTS 4

PROVIDE AN EXPLANATION OF POINTS Operator should be aware of the requirement to monitor for the NPDES parameters.

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? Easy ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS Abatement requires the monitoring of all future discharges.

V. ASSESSMENT SUMMARY FOR N85-6-6-1

I. TOTAL HISTORY POINTS	<u>3</u>
II. TOTAL SERIOUSNESS POINTS	<u>3</u>
III. TOTAL NEGLIGENCE POINTS	<u>4</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>
 TOTAL ASSESSED POINTS	 <u>10</u>
 TOTAL ASSESSED FINE	 <u>\$100</u>

Mike Earl

ASSESSMENT DATE 5/5/86 ASSESSMENT OFFICER Mike Earl