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MICHAEL D. SMITH, CHIEF
Civil Enforcement Division

September 12, 1988

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

Dear Mr. Payne:

Re: Finalized Assessment for State Violation No. N87-9-9-1,
ACT/041/002, Folder #5, Sevier County, Utah

Although this violation was vacated many months ago, the finalized assessment was not completed or sent to you. The enclosed document will serve to close our files and also to give you written notice of the action taken at the assessment conference held on December 11, 1987.

If you have any questions on this action, please contact me at (801) 538-1017.

Sincerely,

Barbara W. Roberts
Assessment Conference Officer

cc: John C. Kathmann, OSM AFO

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

COMPANY/MINE Southern Utah Fuel Company NOV # N87-9-9-1
 PERMIT # ACT/041/002 VIOLATION 1 OF 1
 Assessment Date 12-30-87 Assessment Officer Barbara W. Roberts

Nature of violation: Failure to comply with the conditions and terms of the approved permit.

Date of termination: 9-28-87

	<u>Proposed Assessment</u>	<u>Final Assessment</u>
(1) History/Prev. Vio.	<u>0</u>	<u>-</u>
(2) Seriousness		
(a) Probability of Occurrence	<u>-</u>	<u>-</u>
Extent of Damage	<u>-</u>	<u>-</u>
(b) Hindrance to Enforcement	<u>13</u>	<u>-</u>
(3) Negligence	<u>12</u>	<u>-</u>
(4) Good Faith	<u>8</u>	<u>-</u>
 TOTAL	 <u>17</u>	 <u>-</u>
	TOTAL ASSESSED FINE	<u>\$ 0</u>

3. Narrative:

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

This NOV is vacated for the reason that, although there is a 60 day period for compliance with the USFS #3 stipulation, it is unclear as to when the permit actually became effective thus beginning the running of the 60 day period. Further, it is unclear as to whether the operator was aware of the specific deficiencies communicated to the Division by the Forest Service regarding stipulation USFS #3 and, as a result, did not respond.

Therefore, there is insufficient evidence to support a finding of violation.