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

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Salt Lake City, Utah 84180-1203  
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March 2, 1995

CERTIFIED RETURN RECEIPT  
P 074 976 173

Ken May Manager  
Southern Utah Fuel Co  
397 South 800 West  
Salina, Utah 84542

Re: Proposed Assessment for State Violation No. N94-46-2-1, Southern Utah Fuel, Convulsion Canyon, ACT/041/002 Folder #5, Sevier County, Utah

Dear Mr. May:

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, Peter Hess on December 27, 1994. 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.



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ACT/007/038  
March 2, 1995

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 1, the Assessment Conference will be scheduled immediately following that review.

**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. Helfrich  
Assessment Officer

blb  
Enclosure  
cc: Donna Griffen, OSM

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

COMPANY/MINE Southern UT. Fuel/ Convulsion Canyon

NOV #N94-46-2-1

PERMIT # ACT/041/002

VIOLATION 1 OF 1

ASSESSMENT DATE 2/22/95

ASSESSMENT OFFICER Joseph C. Helfrich

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 2/22/95

EFFECTIVE ONE YEAR TO DATE 2/22/94

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

0

0

0

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 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? A

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?  
Environmental harm, Loss of Reclamation/Revegetation potential, and reduced establishment of a permanent common diverse and effective vegetative cover.

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? likely

.... PROBABILITY	RANGE
.... None	0
.... Unlikely	1-9
.... Likely	10-19
.... Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 15**

PROVIDE AN EXPLANATION OF POINTS

The possibility of machinery operator strain<sup>ying</sup> outside of the disturbed area parameter is great as the majority of the underground miners do not understand or appreciate the consequences that this type of action can involve. The disturbed area was not accurately marked at the time of the incident hence the violation. <sup>C A</sup>

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 0**

PROVIDE AN EXPLANATION OF POINTS

No damage occurred as a result of the violation.

**B. Hindrance Violations MAX 25 PTS**

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

RANGE 0 - 25

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

**ASSIGN HINDRANCE POINTS**

PROVIDE AN EXPLANATION OF POINTS

**TOTAL SERIOUSNESS POINTS (A or B) 15**

**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 diligence with regard to DOGM requirements for disturbed area boundary identification.

**IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)**

- 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)**

**(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)**

\* 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**

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)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

**EASY OR DIFFICULT ABATEMENT?      ASSIGN GOOD FAITH POINTS      - 10**

**PROVIDE AN EXPLANATION OF POINTS**

The inspection occurred 10/31/94 the NOV was written 11/1/94 with abatement due by 11/15/94. The inspector received verbal notification via phone by Mr. Mike Bevas, the representative, on November 3 that the disturbed area perimeter markers had been installed at all four areas. Diligence exercised in completing the abatement requirements of the Notice of Violation.

**V. ASSESSMENT SUMMARY FOR**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>15</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>13</u>
	TOTAL ASSESSED FINE	<u>\$ 130.00</u>

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BB DOGM 3/2/95 ACT/041/002 N94-46-2-1 FLD 5

BB DOGM 3/2/95 ACT/041/002 N94-46-2-1 FLD 5

KEN MAY MANAGER  
SOUTHERN UTAH FUEL CO  
397 S 800 W  
SALINA UT 84542

Package

Postage

Postage Fee

Postage Fee



**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.  
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1.  Show to whom delivered, date, and addressee's address. (Extra charge)  
2.  Restricted Delivery (Extra charge)

3. Article Addressed to:  
KEN MAY MANAGER  
SOUTHERN UTAH FUEL CO  
397 S 800 W  
SALINA UT 84542

4. Article Number  
P 074 976 173

Type of Service:  
 Registered       Insured  
 Certified       COD  
 Express Mail       Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address  
X *R. Nelson*

6. Signature - Agent  
X

7. Date of Delivery 3/9/95

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1988 \* U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

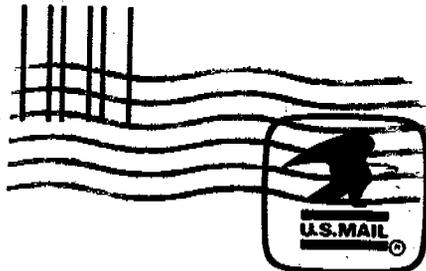
UNITED STATES POSTAL SERVICE  
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- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE USE, \$300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

Division of Oil Gas & Mining  
355 W NORTH TEMPLE  
SALT LAKE CITY UT 84103

