

0025

TM 9/25/98 ACT/041/002 PROPOSED ASSESSMENT C98-46-1-1

PS Form 3800, April 1995

**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. 2.  Restricted Delivery (Extra charge)

3. Article Addressed to:  
KEN MAY  
CANYON FUEL COMPANY  
397 S 800 W  
SALINA UT 84654

4. Article Number  
Z 230 747 347

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 *9/30/98*

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

PS Form 3811, Mar. 1988 \* U.S.G.P.O. 1986-212-865 DOMESTIC RETURN RECEIPT

Postmark or Date

TOTAL Postage & Fees \$

Date, & Addressee's Address

Return Receipt Showing to Whom & Date Delivered

Restricted Delivery Fee

Special Delivery Fee

Certified Fee

Postage \$

Post Office, State, & ZIP Code  
SALINA UT 84654

Street & Number  
397 S 800 W CO

Street & Number  
KEN MAY

Sent to

Do not use for International Mail (See reverse)

No Insurance Coverage Provided.

US Postal Service

Receipt for Certified Mail

Z 230 747 347

UNITED STATES POSTAL SERVICE OFFICIAL BUSINESS



PENALTY FOR PRIVATE USE, \$300

**SENDER INSTRUCTIONS**

Print your name, address and ZIP Code in the space below.

- 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.

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

RETURN TO

— DIVISION OF OIL, GAS & MINING  
 — 1594 W NO TEMPLE STE 1210  
 — SLC UT 84114  
 — ATTEN: TIFFINI MOSS



Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).

- If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
- If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
- If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.
- If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.
- Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipts is requested, check the applicable blocks in Item 1 of Form 3811.
- Save this receipt and present it if you make an inquiry.



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

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

Michael O. Leavitt  
Governor

Lowell P. Braxton  
Division Director

September 25, 1998

CERTIFIED RETURN RECEIPT  
Z 230 747 347

Ken May, General Manager  
Canyon Fuel Company, LLC  
SUFCO Mine  
397 South 800 West  
Salina, Utah 84654

Re: Proposed Assessment for State Cessation Order No. C98-46-1-1, Canyon Fuel Company, LLC, SUFCO Mine, ACT/041/002, Folder #5, Sevier County, Utah

Dear Mr. May:

The undersigned has been appointed by the Division 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 CO (cessation order). This CO was issued by Division Inspector Peter Hess on August 27, 1998. Rule R645-401-600 et. seq. 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 this CO, had been considered in determining the facts surrounding this CO and the amount of this penalty.

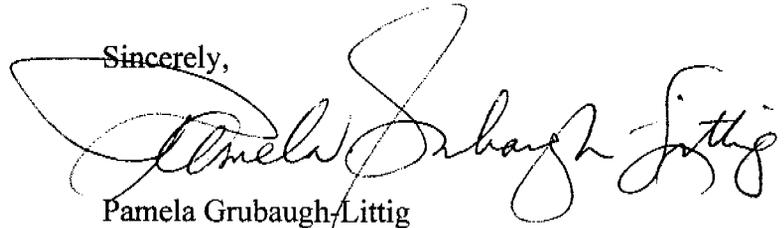
Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this CO, 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.
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.

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ACT/041/002  
September 25, 1998

**If a timely request for review is not made, the fact of the CO 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,

A handwritten signature in cursive script, appearing to read "Pamela Grubaugh-Littig". The signature is written in black ink and is positioned above the printed name.

Pamela Grubaugh-Littig  
Assessment Officer

tam  
Enclosure  
cc: James Fulton, OSM  
Vicki Bailey, DOGM  
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WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS, & MINING

COMPANY/MINE Canyon Fuel Company, LLC/ SUFCO Mine NOV# C98-46-1-1

PERMIT ACT/041/002 VIOLATION 1 OF 1

ASSESSMENT DATE 9/23/98 ASSESSMENT OFFICER Pamela Grubaugh-Littig

I. HISTORY MAX 25 POINTS

A. Are there previous violations, which are not pending or vacated, which fall within 1 year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N98-46-1-1</u>	<u>07/08/98</u>	<u>1</u>
<u>N97-46-4-3</u>	<u>12/21/97</u>	<u>3</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 4**

II. SERIOUSNESS (EITHER A OR B)

NOTE: For assignment of points in Parts II and III, the following apply:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the point 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 VIOLATION MAX 45 POINTS

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

Environmental Harm

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

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**

**PROVIDE AN EXPLANATION OF POINTS:**

Personnel from the Fishlake National Forest informed the DOGM inspector that sewage was leaving the permit area and running down the USFS road from the leach field. A verbal CO was issued to shut down all inflow to the septic system. This was followed by a written CO.

- 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 3**

**PROVIDE AN EXPLANATION OF POINTS:**

Minimal damage occurred to an area thickly vegetated (about 10 feet by 10 feet). No evidence of impacts outside the disturbed area.

**B. HINDRANCE VIOLATION MAX 25 POINTS**

- 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) 23**

**III. NEGLIGENCE MAX 30 POINTS**

- 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--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE No Negligence

**ASSIGN NEGLIGENCE POINTS 0**

**PROVIDE AN EXPLANATION OF POINTS:**

This violation was not the fault of the operator. It appears it may have been caused by rodent burrows in the southeast corner of the leach field.

**IV. GOOD FAITH MAX 20 POINTS**

(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 the 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?

IN 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 of the plan submitted for abatement was incomplete)

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

EASY OR DIFFICULT ABATEMENT? Easy

**ASSIGN GOOD FAITH POINTS -18**

**PROVIDE AN EXPLANATION OF POINTS:**

The permittee took rapid action to determine the cause and contracted a septic system operator to clean the tank.

V. ASSESSMENT SUMMARY

CESSATION ORDER		<u>C98-46-1-1</u>
I.	TOTAL HISTORY POINTS:	<u>4</u>
II.	TOTAL SERIOUSNESS POINTS:	<u>23</u>
III.	TOTAL NEGLIGENCE POINTS:	<u>0</u>
IV.	TOTAL GOOD FAITH POINTS:	<u>-18</u>
	TOTAL ASSESSED POINTS:	<u>10</u>
	<b>TOTAL ASSESSED FINE:</b>	<b><u>\$100.00</u></b>

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