



An Affiliate of Cyprus Coal Company
P.O. Drawer PMC
Price, Utah 84501
(801) 637-2875

December 1, 1988

Mr. Joseph C. Helfrich
Utah Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

RECEIVED
DEC 05 1988

DIVISION OF
OIL, GAS & MINING

Re: NOV #N-88-26-15-3
Assessment of Penalties

Dear Mr. Helfrich:

NOV #1 of 3

We concur with the assessment. After the storms that occurred, the damage to this particular control structure should have been observed readily and some action initiated to correct the workability of the structure.

NOV #3 of 3

Cyprus Plateau disagrees with the assignment of points in the case of this violation. The ponds at Cyprus Plateau, due to the steep slopes, are incised into the natural material of draws with impoundments built across the mouth of the draws. Because of the limited space, it was difficult to obtain the proper size for each pond. There was no room remaining for access around the ponds or cut-off ditches without creating an excessive amount of disturbance.

The cut slopes, disturbed area, forming the ponds are of limited reach normally tying into natural vegetated slopes, pinion-juniper. The area exposed to erosion is small, however, the rainfall events normally drop a large quantity of moisture onto the area in a short period. This results in the contributing area above the ponds generating high intensity rivulets of water funneled toward the pond slopes. The design and construction of these ponds has been approved.

Cyprus Plateau maintains an environmental repair crew from May through November. Projects from a prioritized maintenance list are worked on to maintain compliance and improve controls. Contractors are hired for larger projects. These erosion rills, although definitely present, have not been visualized as a contributor to environmental degradation. All of the eroded zones report to the ponds in question, which are periodically cleaned by Cyprus Plateau. This material is not leaving the property. If there had been significant erosion of the impoundment, then the points assessed would be appropriate.

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Since there are erosion rills on the steep slopes around our property that have formed over the years, we would propose that the "Probability of Occurrence" points should be 4 "Insignificant" due to the minor amount of erosion that has taken place since construction. In fact, the precautions in preparing the pond slopes have been effective in minimizing the erosional activity to date. Extent of damage should be assessed as zero. Negligence points should be zero since maintenance efforts have been directed to high priority items. The areas cited are protected by ponds -- this is not a case of indifference, lack of diligence, or lack of reasonable care. The violation was abated within the time allocated.

Cyprus Plateau appreciates the Division's consideration of our position on this violation.

Sincerely,



Robert G. Lauman
Manager, Technical Services

/kam

File: ENV 2-5-2-5

cc: Bill Malencik - Price Office, DOGM
Ken May