

Files

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

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August 25, 1993

CERTIFIED RETURN RECEIPT
P 074 977 032

Mr. Ben Grimes
Cyprus Plateau Mining Corp.
P.O. Drawer PMC
Price, Utah 84501

Re: Proposed Assessment for State Violation No. N93-25-4-1, Cyprus Plateau Mining Corp., Star Point Mine, ACT/007/006, Folder #5, Carbon County, Utah

Dear Mr. Grimes:

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, Tom Munson on July 28, 1993. 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.
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

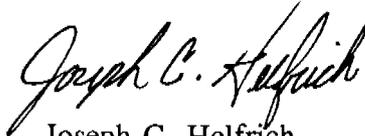


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letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

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

jbe
Enclosure
cc: Bernie Freeman, OSM

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

COMPANY/MINE Cyprus Plateau Mining Corp/Star Point Mine NOV #N93-25-4-1

PERMIT # ACT/007/006

VIOLATION 1 OF 1

ASSESSMENT DATE 08/24/93

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 08/24/93

EFFECTIVE ONE YEAR TO DATE 08/24/92

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>N92-26-4-1</u>	<u>02/09/93</u>	<u>1</u>
<u>N93-26-1-1</u>	<u>06/22/93</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 2

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? Event

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?
Conducting activities without appropriate approvals.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? None

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

ASSIGN PROBABILITY OF OCCURRENCE POINTS 0

PROVIDE AN EXPLANATION OF POINTS

No event occurred as a result of the violation.

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) 0

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

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS

Lack of reasonable care with respect to DOGM regulations and requisite permit conditions.

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 -0

PROVIDE AN EXPLANATION OF POINTS

The abatement date was set at August 20, 1993, the permittee submitted information on August 18, 1993, and completed the work on August 19, 1993. Essentially, the permittee waited until the last two days of the abatement period before submitting information to obtain approval to complete the construction of the diversion ditch.

V. ASSESSMENT SUMMARY FOR N93-25-4-1

I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>0</u>
III.	TOTAL NEGLIGENCE POINTS	<u>8</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-0</u>
	TOTAL ASSESSED POINTS	<u>10</u>
	TOTAL ASSESSED FINE	<u>\$ 100.00</u>

jbe

EVENT VIOLATIONS INSPECTORS STATEMENT

Company/Mine Star Point Mine
Permit # ACT/007/006

NOV/CO # 93-25-4-1
Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of events below and remember that the event is not the same as the violation. Circle and explain each event.
- a. Activity outside the approved permit area.
 - b. Injury to the public (public safety).
 - c. Damage to property.
 - * d. Conducting activities without appropriate approvals.
 - e. Environmental harm.
 - f. Water pollution.
 - g. Loss of reclamation/revegetation potential.
 - h. Reduced establishment, diverse and effective vegetative cover.
 - i. No event occurred as a result of the violation.
 - j. Other.

The operator failed to get the appropriate approvals prior to conducting all coal mining operations for Ditch 74 B.

2. Has the event occurred? Yes ___ No X

___ Yes: Describe it.

X No: What would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

No event occurred as a result of the violation.

3. Did any damage occur as a result of the violation?

X ___ No

___ Yes: Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss.)

- () Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation

- (X) Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care, explain.

Explanation

The operator failed to obtain the proper approval to modify and construct Ditch 74 B prior to actual implementation of the ditch construction.

- () If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation

- () Was the operator in violation of a specific permit condition?

Explanation

- (X) Did the operator receive prior warning of noncompliance by State or Federal inspectors concerning this violation?

Explanation

No, the operator was not given prior warning.

- (X) Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation

No, the Division has not cited this violation in the past to the best of this inspector's knowledge.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

2. Explain whether or not the operator had the necessary resources onsite to achieve compliance.

Yes, the operator did have the necessary personel on site to achieve compliance.

3. Was the submission of plans prior to physical activity required by this NOV/CO? Yes X No ___ If yes, explain.

The operator failed to submit the necessary information prior to implementation of the construction activities related to the ditch. A fax was received by the Division on August 18,1993. Verbal approval was given at that time to complete the work and the work was completed on August 19,1993.

Tom Munson
Authorized Representative

Tom Munson 8/23/93
Signature Date