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**CYPRUS PLATEAU
MINING CORPORATION**
A Cyprus Amax Company

Cyprus Plateau Mining Corporation
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August 13, 1996

ACT/007/038 - Folder #2

Faxed

Mr. Steven Johnson
Utah Department of Natural Resources
Division of Oil Gas and Mining
1594 West North Temple, Suite 1210
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Salt Lake City, Utah 84114-5801

Post-It® Fax Note	7671	Date	8/13	# of pages	3
To	STEVE JOHNSON	From	BEN GRIMES		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	357-3940	Fax #			

RE: NOV N96-44-1-1

Dear Mr. Johnson,

We received yesterday, August 12 NOV N96-44-1-1 by mail; the violation has a service mailing date of August 6, 1996. The NOV has an abatement date of August 12; obviously this is impossible to accomplish. In addition, the abatement requirement is to reestablish flow to the stream in 7 days; this may be impossible.

The nature of violation, "failure to conduct mining and reclamation operations to minimize disturbances to the hydrologic balance" is not true. Cyprus conducted the operations (construction) according to the approved plans. These plans were negotiated with the Corps of Engineers, DWR, State Engineer, and the Division. The design of the channel was dictated by the agencies involved. If we had been allowed to construct the channel using standard techniques we believe the problem would have been precluded. If fines had been used between the rip rap the stream most likely would have sealed itself preventing the loss of water into the ground to a large extent. The design mandated basically is a french drain, forcing the water to flow between the rocks and causing loss into the ground. We are very frustrated with the actions taken by the Division in this matter.

The other significant factor in the water loss downstream is the large hole created by the diesel fuel spill encountered in the relocated stream channel. This hole was caused by having to remove the diesel contaminated soils according to Utah State regulations. The diesel contaminated soil was the result of spills by a trucking company long before Cyprus acquired the property. The hole in essence created a sink for stream water; at the low flow condition now experienced the ground inflow is greater than the actual flow in the stream (approximately 0.50 cfs).

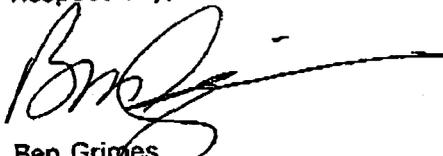
Another frustrating aspect of the situation is the position taken by the DWR. Willow Creek is classified as a fishery, and the DWR is sticking with the position that flow must be reestablished by mid September for the fall spawning season, yet it is uncertain if the stream is a spawning stream. During two October fish counts (1994 and 1995) conducted by Cyprus consultants not even one Brown Trout was found. The stream flow is very unpredictable and fluctuates greatly dependant upon precipitation. This year has been very dry and it is doubtful

if the stream will have enough flow to sustain a spawn.

As we discussed in the field yesterday, we have begun remedial action to reestablish the flow below the project site. We are using a mixture of 60% fine soil and 40% bentonite to attempt to seal the rock voids and prevent water from going sub-surface. We will continue this process for two to three days and evaluate the results. If significant success is achieved, we will continue the process; if success is not achieved, we will excavate the rip rap out at key locations to identify the location/locations of water loss. After the location/locations of water loss are found, we will concentrate on those areas with remedial actions.

For the reasons discussed above, we respectfully request that the violation be vacated. If it is not vacated we request that the abatement time be extended for 60 days to allow for unforeseen conditions. We have started remedial actions and will continue with the agreed upon plan of action in any event. We initiated discussions with the lead agency (Corps of Engineers) before the Division and DWR got involved in this situation. We attempted to contact Michele Waltz at the Corps on several occasions during the week of July 29 and finally made contact on August 1. At that time Michele and I agreed that she would discuss the situation with co-workers and possibly the DWR and the Division and we would talk again on August 12 to formulate an action plan. In the mean- time, the Division wrote the violation. We have taken prudent action to resolve this situation, the violation is not justified.

Respectfully,



Ben Grimes
Sr. Staff Project Engineer

C: Michele Waltz - Corps of Engineers
John Borla
Lowell Braxton
Ben Morris - DWR

File: WCENV 2.5.2.5
Chron: BG960801



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
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 of the return address.

CERTIFIED

P 074 976 466

MAIL

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AUG 12 1996