

0014



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

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September 27, 1996

CERTIFIED RETURN RECEIPT  
P 074 977 688

Johnny Pappas, Environmental Engineer  
Cyprus Plateau Mining Corp.  
P.O. Drawer PMC  
Price, Utah 84501

Re: Proposed Assessment for State Violation No. N96-44-1-1, Cyprus Plateau Mining Corp., Willow Creek Mine, ACT/007/038, Folder #5, County, Utah

Dear Mr. Pappas:

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, Steven M. Johnson on August 6, 1996. 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 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 letter. If you are also requesting a review of the fact of violation, as noted in

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ACT/007/038

September 27, 1996

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: James Fulton, OSM  
Vicki Bailey, DOGM

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

COMPANY/MINE Cyprus Plateau/Willow Creek Mine NOV# N-96-44-1-1

PERMIT# ACT/007/038

VIOLATION 1 OF 1

ASSESSMENT DATE 9/27/96

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 9/27/96

EFFECTIVE ON YEAR TO DATE 9/27/95

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____
_____	_____	_____
_____	_____	_____

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 violation falls. Beginning at the mid-point of the category, the AO 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 Event

A. Event Violations MAX 45 PTS

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?

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

**ASSIGN PROBABILITY OF OCCURRENCE POINTS** 20

**PROVIDE AN EXPLANATION OF POINTS**

Willow Creek was lost from the area of the stream alteration to the Price River. This resulted in lost fish and macro invertebrate habitat and stress to the riparian vegetation communities. Due to realignment of the Willow Creek channel and low flows all the water from Willow Creek infiltrated the ground leaving the stream bed dry.

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** 20

**PROVIDE AN EXPLANATION OF POINTS**

Riparian habitat was lost from the stream for a period of about two months for a distance of approximately .5 miles when the stream bed dried up completely.

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**

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**TOTAL SERIOUSNESS POINTS (A OR B)** 40

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 No Negligence

**ASSIGN NEGLIGENCE POINTS** 0

**PROVIDE AN EXPLANATION OF POINTS**

The loss of water was a result of extremely low flow in combination with the construction methods required under the U.S. Army Corps of Engineers permit.

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 Operator worked diligently to abate the violation. Diminished flows created a problem, however, the stream bottom was sealed and the violation abated prior to the abatement date.

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V. ASSESSMENT SUMMARY FOR N96-44-1-1

I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>40</u>
III. TOTAL NEGLIGENCE POINTS	<u>0</u>
IV. TOTAL GOOD FAITH POINTS	<u>10</u>
TOTAL ASSESSED POINTS	<u>30</u>
TOTAL ASSESSED FINE	<u>\$ 400.00</u>

b/b  
O:\I&E\PROPLET1

BB D06M ACT/007/038 FLD 5 9/27/96 N96-44-1-1

D06M

P 074 977 688

RECEIPT FOR CERTIFIED MAIL  
NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

JOHNNY PAPPAS CYPRUS PLATEAU PO DRAWER PMC PRICE UT 84501	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 888
Postmark of Date	



PS Form 3811, Mar. 1988

3 and 4. If your address in the RETURN TO space on the reverse side, failure to do this will prevent this item from being returned to you. A return receipt 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 boxes for additional services requested.

1.  Show to whom delivered, date, and addressee's address.

2.  Restricted Delivery (Extra charge)

3. Article Addressed to:

JOHNNY PAPPAS  
CYPRUS PLATEAU  
PO DRAWER PMC  
PRICE UT 84501

4. Article Number: P 074 977 688

Type of Service:

Registered

Certified

Express Mail

Insured

COD

Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

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

5. Signature - Addressee

6. Signature - Agent

7. Date of Delivery: 10-03-96

PS Form 3811, Mar. 1988

US G.P.O. 1988-212-885

DOMESTIC RETURN RECEIPT

STICK POSTAGE STAMPS TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (See front)

1. 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)
2. 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.
3. 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.
4. 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.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1988-217-132

UNITED STATES POSTAL SERVICE  
OFFICIAL BUSINESS



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.

RETURN TO

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

**DIVISION**

**OF**

**OIL GAS & MINING**

1594 W NORTH TEMPLE  
BCX 145801  
SALT LAKE CITY UT 84114-5801

STE 1210



PENALTY FOR PRIVATE USE, \$300