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State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING  
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August 13, 1996

CERTIFIED RETURN RECEIPT  
P 074 977 677

John Pappas, Sr. Environmental Engineer  
Cyprus Plateau Mining Corporation  
P.O. Drawer PMC  
Price, Utah 84501

Re: Proposed Assessment for State Violation No. N-96-41-1-1, Cyprus Plateau Mining Corporation, Willow Creek Mine, ACT/007/038, Folder #5, Carbon 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, Paul Baker on June 25, 1996. 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

H: I&E\Proplet  
bib  
Enclosure  
cc: James Fulton, OSM  
Vicki Bailey, DOGM

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

COMPANY/MINE Cyprus Plateau/Willow Creek NOV# N-96-41-1-1

PERMIT# ACT/007/038 VIOLATION 1 OF 1

ASSESSMENT DATE 6/13/96 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 6/13/96 EFFECTIVE ON YEAR TO DATE 6/13/97

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 Water Pollution

A. Event Violations MAX 45 PTS

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

The operator removed the culvert in a stream while the stream was flowing through the culvert resulting in sediment deposition to Willow Creek.

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 15

PROVIDE AN EXPLANATION OF POINTS

The damage was sediment loading to a perennial stream, (Willow Creek), that flows through the permit area and exits the permit area and enters the Price River. The extent of damage ranged for approximately one half mile of Willow Creek before entering the Price River. Sediment deposition according to the inspector occurred from approximately 8:30 a.m. to 3:00 p.m.

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 0

PROVIDE AN EXPLANATION OF POINTS

TOTAL SERIOUSNESS POINTS (A OR B) 35

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 Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 30

PROVIDE AN EXPLANATION OF POINTS

Culvert removal was not necessary prior to completion of the stream alteration. It was clear from both designs in the Army Corps of Engineers permit and after seeing the new culvert that the stream could have been diverted prior to removal of the old culvert.

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

There is no abatement required by the Notice of Violation thus, no good faith points are possible.

V. ASSESSMENT SUMMARY FOR \_\_\_\_\_

I. TOTAL HISTORY POINTS	_____
II. TOTAL SERIOUSNESS POINTS	<u>35</u>
III. TOTAL NEGLIGENCE POINTS	<u>30</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 65

TOTAL ASSESSED FINE \$ 1800.00

Postmark or Other	
TOTAL Postage and Fee	\$
Date and Address of Delivery	8/19/88
Return Receipt Showing to Whom	
Return Receipt Date	
Restricted Delivery Fee	
Special Delivery Fee	
Certified Fee	
Postage	\$
P.O., State and ZIP Code	PRICE UT 84501

96/E1/8 5 FLD 1-1-14-96N 830/100/CTY WGD 88

JOHNNY PAPPAS  
CYPRUS PLATEAU MINING  
PO DRAWER PMC  
PRICE UT 84501

NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL

RECEIPT FOR CERTIFIED MAIL

P 024 927 677

RR DGM ACT/007/084-N96-41-1-1 ELD 5 8/13/96

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 be provided 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 service(s) requested.

1.  Show to whom delivered, date, and addressee's address. 2.  Restricted Delivery (Extra charge)

3. Article Addressed to:

JOHNNY PAPPAS  
CYPRUS PLATEAU MINING  
P DRAWER PMC  
PRICE UT 84501

4. Article Number: P 074 977 677

Type of Service:  Registered  Insured  
 Certified  COD  
 Express Mail  Return Receipt for Merchandise

8. Addressee's Address (ONLY if requested and fee paid): Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature: *[Signature]*

6. Signature Agent: *[Signature]*

7. Date of Delivery: 8/19/88

PS Form 3811, March 1988, U.S. G.P.O. 1989-412-965 DOMESTIC RETURN RECEIPT

U.S.G.P.O. 2-17-1-32

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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 boxes in Item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

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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, DIVISION the space below.

OF

**OIL GAS & MINING**

1594 W NORTH TEMPLE STE 1210  
BOX 145801  
SALT LAKE CITY UT 84114-5801



PENALTY FOR PRIVATE USE, \$300