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

Michael O. Leavitt  
Governor  
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Executive Director  
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801-538-5340  
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801-538-7223 (TDD)

April 21, 1997

CERTIFIED RETURN RECEIPT  
P 074 977 720

Ben Grimes, Sr. Staff Project Engineer  
Cyprus Plateau  
P.O. Drawer PMC  
Price, Utah 84501

Re: Proposed Assessment for State Violation No. N-97-46-1-3, 2/3 and 3/3, Cyprus Plateau, Willow Creek Mine, ACT/007/038, Folder #5, Carbon County, Utah

Dear Mr. Grimes:

The undersigned has been appointed by the Division 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 Peter Hess, on March 26, 1997. 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.

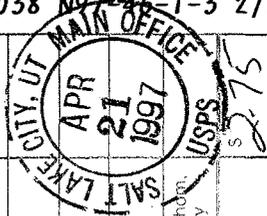
Under R645-401-700, there are two informal appeal options available to you:

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 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.

TT DOGM 4/21/97 ACT/007/038 N97-46-1-3 2/3 & 3/3

P 074 977 720  
 RECEIPT FOR CERTIFIED MAIL  
 NO INSURANCE COVERAGE PROVIDED  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

Sent to	BEN GRIMES
Street and No.	CYPRUS PLATEAU
P.O. State and ZIP	PO DRAWER PMC PRICE UT 84501
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom Date and Address of Delivery	
TOTAL Postage and Fees	\$2.75
Postmark or Date	



STICK POSTAGE STAMPS TO ARTICLE 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.

PS Form 3800, June 1985

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

TT DOGM 4/21/97 ACT/007/038 N97-46-1-3 2/3 & 3/3

**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 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 box(es) for additional service(s) requested.

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

3. Article Addressed to:  BEN GRIMES CYPRUS PLATEAU PO DRAWER PMC PRICE UT 84501	4. Article Number  P 074 977 720  Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise  Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature - Address X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X	
7. Date of Delivery 04-23-97	

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.



PENALTY FOR PRIVATE USE, \$300

RETURN TO

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

DIVISION OF  
 OIL GAS & MINING  
 1584 W NORTH TEMPLE STE 1210  
 BOX 145801  
 SALT LAKE CITY UT 84114-8301

Page 2  
N-96-39-4-1  
ACT/015/032  
April 21, 1997

**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,



Pamela Grubaugh-Littig  
Assessment Officer

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Enclosure  
cc: James Fulton, OSM  
Vicky Bailey, DOGM  
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WORKSHEET FOR ASSESSMENT OF PENALTIES  
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Cyprus Plateau/Willow Creek NOV# N-97-46-1-3

PERMIT# ACT/007/038 VIOLATION 2 OF 3

ASSESSMENT DATE 04/10/97 ASSESSMENT OFFICER Pamela Grubaugh-Littig

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 EFFECTIVE ON YEAR TO DATE

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>C-96-46-1-1</u>	<u>02/14/97</u>	<u>5</u>
<u>N-96-46-4-3</u>	<u>02/14/97</u>	<u>3</u>
<u>N-96-44-1-1</u>	<u>03/20/97</u>	<u>1</u>
<u>N-96-44-1-1</u>	<u>12/23/96</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 10

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

A. Event Violations MAX 45 PTS

- What is the event which the violated standard was designed to prevent?  
**Failed to properly control noncoal waste.**
- 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**

Noncoal waste has not been properly disposed of and is accumulating on site.

- 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 12**

**PROVIDE AN EXPLANATION OF POINTS**

Noncoal waste was found in the diversions. Potential for wind disposal (bags, plastics, etc.) A fire hazards also exists.

- 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) 32**

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\_\_

**ASSIGN NEGLIGENCE POINTS 22**

**PROVIDE AN EXPLANATION OF POINTS**

The permittee has received numerous warnings plus two previous violations for improper disposal of noncoal waste.

- 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? Easy ASSIGN GOOD FAITH POINTS -5

**PROVIDE AN EXPLANATION OF POINTS**

This violation has been terminated within the abatement period.

V.	<u>ASSESSMENT SUMMARY FOR</u>	<u>N-97-46-1-3</u>
	I. TOTAL HISTORY POINTS	<u>10</u>
	II. TOTAL SERIOUSNESS POINTS	<u>32</u>
	III. TOTAL NEGLIGENCE POINTS	<u>22</u>
	IV. TOTAL GOOD FAITH POINTS	<u>-5</u>
	TOTAL ASSESSED POINTS	<u>59</u>
	<b>TOTAL ASSESSED FINE</b>	<b><u>\$ 1.360.00</u></b>

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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-97-46-1-3

PERMIT# ACT/007/038 VIOLATION 3 OF 3

ASSESSMENT DATE 04/10/97 ASSESSMENT OFFICER Pamela Grubaugh-Littig

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 EFFECTIVE ON YEAR TO DATE

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>C-96-46-1-1</u>	<u>02/14/97</u>	<u>5</u>
<u>N-96-46-4-3</u>	<u>02/14/97</u>	<u>3</u>
<u>N-96-44-1-1</u>	<u>03/20/97</u>	<u>1</u>
<u>N96-41-1-1</u>	<u>12/23/96</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 10

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

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent?  
**Failure to properly construct sediment control measures.**
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**

Snowmelt has run from propane tank pad to Willow Creek without proper treatment.

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**

There has been additional contribution of suspended solids to surface waters.

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)** 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 Ordinary

**ASSIGN NEGLIGENCE POINTS** 13

**PROVIDE AN EXPLANATION OF POINTS**

The silt fence was improperly installed by a contractor. However, the installation of the fence is the responsibility of the permittee.

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? Easy ASSIGN GOOD FAITH POINTS -5

**PROVIDE AN EXPLANATION OF POINTS**

The permittee repaired the voids in the silt fence using acceptable methods within the time frame of the abatement period.

V. ASSESSMENT SUMMARY FOR N-97-46-1-3 (3 of 3)

I. TOTAL HISTORY POINTS	<u>10</u>
II. TOTAL SERIOUSNESS POINTS	<u>35</u>
III. TOTAL NEGLIGENCE POINTS	<u>13</u>
IV. TOTAL GOOD FAITH POINTS	<u>-5</u>

TOTAL ASSESSED POINTS 53

TOTAL ASSESSED FINE \$ 1,120.00

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