0038

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

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January 13, 1997

CERTIFIED RETURN RECEIPT
P 074 977 681

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

Re: Proposed Assessment for State Violation No. N96-46-4-3, Cyprus Plateau Mining, 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 December 11, 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 paragraph 1, the Assessment Conference will be scheduled immediately

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Division of Oil, Gas, & Mining
1594 West North Temple Suite 1210
BOX 145801
Salt Lake City Utah 84114

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SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

TF TOCM 3/27/97 ACT/007/038 N97-46-1-3 FLD 5

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
Ben Grimes
Plateau Mining Company
PO Drawer PMC
Price Utah 84501

4a. Article Number
Z 382 122 635

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

5. Signature (Addressee)

6. Signature (Agent)

7. Date of Delivery
03-31-97

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

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

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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,

Pamela Grubaugh-Littig
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 NOV# N-96-46-4-3

PERMIT# ACT/007/038 VIOLATION 2 OF 3

ASSESSMENT DATE 1/13/97 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 1/13/97 EFFECTIVE ON YEAR TO DATE 1/13/98

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
N96-41-1-1	1/10/97	1
N96-44-1-1	11/27/96	1
N96-46-3-1	11/24/96	1

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 3

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 Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? _
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

The coal preparation waste rock site was not being constructed according to the design, i.e.

construction impeded drainage and impounded water.

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

Potential damage could be extensive due to the magnitude of the refuse pile.

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 Negligence

ASSIGN NEGLIGENCE POINTS 15

PROVIDE AN EXPLANATION OF POINTS

An MSHA inspector had mentioned the problem with the refuse pile a week earlier. It appeared that nothing had been done to correct the problem.

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

V. ASSESSMENT SUMMARY FOR N 96-46-4-3 2/3

I. TOTAL HISTORY POINTS 3
II. TOTAL SERIOUSNESS POINTS 35
III. TOTAL NEGLIGENCE POINTS 15
IV. TOTAL GOOD FAITH POINTS 0

TOTAL ASSESSED POINTS 53

TOTAL ASSESSED FINE $ 1120.00

blb
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