



0013

UTAH
NATURAL RESOURCES
Oil, Gas & Mining

3 Triad Center • Suite 350 • Salt Lake City UT 84180-1203 • 801-538-5340

MODIFICATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name WESTERN STATES MINERALS
Mailing Address SUITE 130 250 SO. ROCK BLVD. RENO NV.
State Permit No. ACT/015/002 ¹⁸⁹⁵⁰²

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., Utah Code Annotated (1953):

Notice of Violation No. N 91-32-06-1, 93-25-03-01 dated 12/19/91 + 7/12/93

Cessation Order No. C _____ dated _____, 19____.

Part ____ of ____ is modified as follows: The (2) notices of violation are extended until 12/30/94 to accommodate

Reason for modification is finalization of site construction, per field inspection of 12/1/94. See attached

Part ____ of ____ is modified as follows: letter requesting extension from Mr. Gerich dated 12/2/94.

Reason for modification is associate director's administrative waiver of R 645-400-327, 362 ATT

Part ____ of ____ is modified as follows: _____

CERTIFIED RETURN RECEIPT P 074 976 146

Date of service/ mailing ~~XXXXX~~ 12/09/94 Time of service/ mailing 3:30 a.m. p.m.

Date of inspection 12/19/91, 7/12/93

E.M. GERICH
Permittee/Operator representative Title

MALLED FROM O.O.G.M OFFICE
Signature

TOM MUNSON, HENRY SAJER
Division of Oil, Gas & Mining Title

Thomas Munson, Henry Sajer
Signature

REC SPEC.
HYDRO, SOILS.

**WESTERN
STATES
MINERALS
CORPORATION**



FAX TRANSMITTAL SHEET

For Action < Tom Munson
Henry Sauer

DATE 12 / 2 / 94

ATTENTION: For Information < Daron Haddock
Joe Helfrich

COMPANY: Utah DOGM

FAX: (801) 359 - 3940

FROM: Buzz Gerick

OF PAGES: 2 (Includes this cover sheet).

*cc: Joe, Daron
Henry, Tom
file # 10151002
#5*

MESSAGE: Tom & Henry - It was good to see
the both of you in the field. Pls. find
attached a request for time extension
until Dec. 30, 1994. Thanks for your
consideration.

As ever,

Buzz Gerick



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 2, 1994

Mr. Tom Munson
Mr. Henry Sauer
State of Utah
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

RE: J.B. King Mine, ACT/015/002, Folder #2, Emery County, Utah - NOV's #91-32-6-1 & #93-25-3-1 -
Abatement action underway/Request extension of time to complete

Dear Mr. Munson and Mr. Sauer:

As you are aware, abatement actions for NOV's #91-32-6-1 & #93-25-3-1 are underway in the field; and Permit Amendment documents have been submitted to your agency for review and approval prior to November 30, 1994. However, while fieldwork is progressing very well as evidenced by your November 30, 1994 inspection, the work is still incomplete. Therefore, I respectfully request an extension of time to December 30, 1994 to complete the required abatement actions necessary to terminate NOV's #91-32-6-1 & #93-25-3-1.

Your consideration of this request is greatly appreciated, and if you have any questions, please call me at your earliest convenience.

Sincerely,

E.M. (Buzz) Gerick
V.P. Operations

CC: D. Haddock, DOGM
J. Helfrich, DOGM

319. Within sixty days after issuing a cessation order, the Division will notify in writing any person who has been identified under R645-300-147 and R645-301-112.300 and 112.400 as owning or controlling the permittee, that the cessation order was issued and that the person has been identified as an owner or controller.
320. Notices of Violation.
321. The Division will issue a notice of violation if, on the basis of a Division inspection carried out during the enforcement of a State Program it finds a violation of the State Program or any condition of a permit or an exploration approval imposed under the State Program which does not create an imminent danger or harm for which a cessation order must be issued under R645-400-310.
322. When on the basis of any Division inspection other than one described in R645-400-321, the Division determines that there exists a violation of the State Program or any condition of a permit or an exploration approval required by the Act or the cessation order must be issued under R645-400-310, the Division will issue a notice of violation to the permittee or his agent fixing a reasonable time not to exceed 90 days for the abatement of the violation and providing opportunity for a conference before the Division.
323. A notice of violation issued under R645-400-320 will be in writing, signed by the authorized representative of the Division, and will set forth reasonable specificity:
- 323.100. The nature of the violation;
- 323.200. The remedial action required, which may include interim steps;
- 323.300. A reasonable time for abatement, which may include time for accomplishment of interim steps; and
- 323.400. A reasonable description of the portion of the coal exploration or coal mining and reclamation operations to which it applies.
324. The Division may extend the time set for abatement or for accomplishment of an interim step, if the failure to meet the time previously set was not caused by lack of diligence on the part of the permittee. The total time for abatement under a notice of violation, including all extensions, will not exceed 90 days from the date of issuance except upon a showing by the permittee that it is not feasible to abate the violation within 90 calendar days due to one or more of the circumstances in R645-400-327. An extended abatement date pursuant to this section will not be granted when the permittee's failure to abate within 90 days has been caused by lack of diligence or intentional delay by the permittee in completing the remedial action required.
325. If the permittee fails to meet any time set for abatement or for accomplishment of an interim step, the Division will issue a cessation order under R645-400-314.
326. The Division will terminate a notice of violation by written notice to the permittee, when the Division determines that all violations listed in the notice of violation have been abated. Termination will not affect the right of the Board to assess civil penalties for those violations which have been abated, nor will termination affect the right of the Board to assess civil penalties for those violations under R645-401.
327. Circumstances which may qualify a coal mining and reclamation operation for an abatement period of more than 90 days are:
- 327.100. Where the permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;
- 327.200. Where there is a valid judicial order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which he or she has no other effective legal remedy;
- 327.300. Where the permittee cannot abate within 90 days due to a labor strike;
- 327.400. Where climatic conditions preclude abatement within 90 days or where, due to climatic conditions, abatement within 90 days clearly would cause more environmental harm than it would prevent; or
- 327.500. Where abatement within 90 days requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act of 1977.
328. Other information on abatement times extended beyond 90 days.
- 328.100. Whenever an abatement time in excess of 90 days is permitted, interim abatement measures will be imposed to the extent necessary to minimize harm to the public or the environment.
- 328.200. If any of the conditions in R645-400-327 exists, the permittee may request the authorized representative of the Division to grant an abatement period exceeding 90 days. The authorized representative will not grant such an abatement period without the concurrence of the Director or his or her designee and the abatement period granted will not exceed the shortest possible time necessary to abate the violation. The permittee will have the burden of establishing by clear and convincing proof that he or she is entitled to any extension under the provisions of R645-400-324 and R645-400-327.
- 328.300. In determining whether or not to grant an abatement period exceeding 90 days the authorized representative may consider any relevant written or oral information from the permittee or any other source. The authorized representative will promptly and fully document in the file his or her reasons for granting or denying the request. The Director or designee of the Director specified in R645-400-328.200 will review this document before concurring in or disapproving the extended abatement date and will promptly and fully document the reasons for his or her concurrence or disapproval in the file.
- 328.400. Any determination made under R645-400-328.200 or R645-400-328.300 will contain a right of appeal to the Board under R645-400-360.
- 328.500. No extension granted under R645-400-328.200 or R645-400-328.300 may exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the procedures of R645-400-328.200.

- authorized representative, appears to be in charge of the coal exploration or coal mining and reclamation operation referred to in the notice or order. If no such individual can be located at the site, a copy may be tendered to any individual at the site who appears to be an employee or agent of the permittee. Service will be complete upon tender of the notice or order and will not be deemed incomplete because of refusal to accept.
- 341.200. As an alternative to R645-400-341.100, service may be made by sending a copy of the notice or order by certified mail or by hand to the permittee or his designated agent. Service will be complete upon tender of the notice or order by mail and will not be deemed incomplete because of refusal to accept.
342. A show cause order may be served on the permittee in either manner provided in R645-400-341.
343. Designation by any person of an agent for service of notices and orders will be made in writing to the Division.
- 350. Informal Public Hearing.**
351. Except as provided in R645-400-352 and R645-400-353 a notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, will expire within 30 days after it is served unless an informal public hearing has been held within that time. The hearing will be held at or reasonably close to the mine site so that it may be viewed during the hearing or at any other location acceptable to the Division and the permittee. The Division office nearest to the mine site will be deemed to be reasonably close to the mine site unless a closer location is requested and agreed to by the Division. Expiration of a notice or order will not affect the Board's right to assess civil penalties for the violations mentioned in the notice or order under R645-401.
352. A notice of violation or cessation order will not expire as provided in R645-400-351, if the condition, practice or violation in question has been abated or if the informal public hearing has been waived, or if, with the consent of the permittee, the informal public hearing is held later than 30 days after the notice or order was served. For purposes of R645-400-352:
- 352.100. The informal public hearing will be deemed waived if the permittee:
- 352.110. Is informed, by written notice served in the manner provided in R645-400-352.200, that he or she will be deemed to have waived an informal public hearing unless he or she requests one within 30 days after service of the notice; and
- 352.120. Fails to request an informal public hearing within that time;
- 352.200. The written notice referred to in R645-400-352.110 will be delivered to the permittee by an authorized representative or sent by certified mail to the permittee no later than five days after the notice or order is served on the permittee; and
- 352.300. The permittee will be deemed to have consented to an extension of the time for holding the informal public hearing if his or her request is received on or after the 21st day after service of the notice or order. The extension of time will be equal to the number of days elapsed after the 21st day.
353. The Division will give as much advance notice as is practicable of the time, place, and subject matter of the informal public hearing to:
- 353.100. The permittee; and
- 353.200. Any person who filed a report which led to that notice or order.
354. The Division will also post notice of the hearing at the office closest to the mine site, and publish it, where practicable, in a newspaper of general circulation in the area of the mine.
355. An informal public hearing will be conducted by a representative of the Board who may accept oral or written arguments and any other relevant information from any person attending.
356. Within five days after the close of the informal public hearing, the Division will affirm, modify or vacate the notice or order in writing. The decision will be sent to:
- 356.100. The permittee; and
- 356.200. Any person who filed a report which led to the notice or order.
357. The granting or waiver of an informal public hearing will not affect the right of any person to formal review under UCA 40-10-22-(3). At such formal review proceedings, no evidence as to statements made or evidence produced at an informal public hearing will be introduced as evidence or to impeach a witness.
- 360. Board Review of Citations.**
361. Petition Process.
- 361.100. A permittee issued a notice of violation or cessation order under R645-400-320 or R645-400-310 or a person having an interest which is or may be adversely affected by the issuance, modification, vacation or termination of a notice or order, may request review of the Division's action by filing an application for review and request for hearing pursuant to UCA 40-10-22(3) and the Board's Rules within 30 days after receiving notice of the action.
- 361.200. Upon written petition by the operator or an interested party, the Board, at its discretion, or a hearing examiner appointed by the Board, pursuant to UCA 40-6-10(6), may be requested to hold a hearing at the site of the operation or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of public hearing.
- 361.300. The Board will issue an order concerning the cessation order within 30 days after its next regularly scheduled hearing of receipt of the petition for review of the Division's cessation order.
362. The filing of a petition for review and request for a hearing under R645-400-360 will not operate as a stay of any notice or order, or of any modification, termination or vacation of either.
- 370. Inability to Comply.**
371. No cessation order or notice of violation issued under R645-400-300 may be vacated because of inability to comply.



gk

VACATION/TERMINATION OF NOTICE OF VIOLATION/CESSATION ORDER

To the following Permittee or Operator:

Name WESTERN STATES MINERAL CORP.

Mailing Address 250 SOUTH ROCK BLVD., SUITE 130 RENO

State Permit No. ACT/015/002 *MT. 88502*

Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., Utah Code Annotated (1953):

Notice of Violation No. N 93-25-31 dated 7/12, 19 93.

Cessation Order No. C _____ dated _____, 19 _____.

Part ____ of ____ is vacated terminated because The operator has submitted complete and technically adequate plans providing for reconfiguration and

Part ____ of ____ is vacated terminated because completed reconfiguration (per field visit of 1/10/95) Field work was completed 12/22/94 (per attached letter.)

Part ____ of ____ is vacated terminated because _____

CERTIFIED POST 970 101

Date of service/ mailing 2/17/95 Time of service/ mailing 2:30 a.m. p.m.

E.M. GERICH
Permittee/Operator representative Title

MAILED FROM D.O.G.M. OFFICES
Signature

TOM MUMSON REG. SPEC.
Division of Oil, Gas & Mining Title

Tom Mumson
Signature



**B01 TR2

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS



PENALTY FOR PRIVATE USE, \$300

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
355 WEST NORTH TEMPLE
3 TRIAD CENTER STE 350
SALT LAKE CITY UT 84180

3. Article Addressed to:
 WESTERN STATES MINERALS
 EM GARRICK
 250 SOUTH ROCK BLVD STE 130
 RENO NV 89502

4. Article Number:
 P074 976 161

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

5. Signature - Address:
 X

6. Signature - Agent:
 X *[Signature]*

7. Date of Delivery:
 FEB 9 1995

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

Always obtain signature of addressee or agent and DATE DELIVERED.

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

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

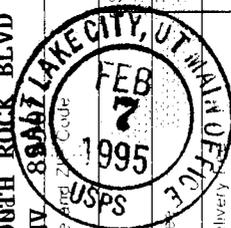
- If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (see front charge)
- If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt and mail the article.
- 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.
- 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.
- 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.
- Save this receipt and present it if you make inquiry.

BB DOGM 2/7/95 ACT/015/002 N93-25-3-1 FLD 5

P 074 976 161

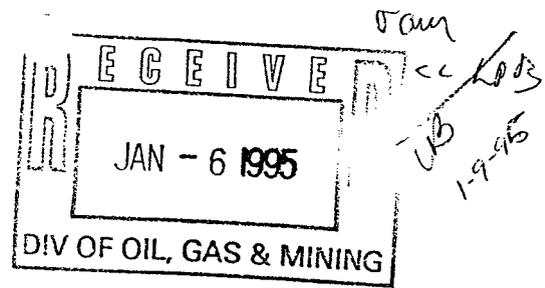
RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

| | | | | | | | | | | |
|--|--|-------------------------|---------|---------------|------------------|-------------------------|---|---|------------------------|------------------|
| WESTERN STATES MINERALS Sent to EM GARRICK | 250 SOUTH ROCK BLVD STE 130 RENO NV 89502 | P.O. State and Zip Code | Postage | Certified Fee | Special Delivery | 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 | Postmark or Date |
| | | | | | | | | | 2.75 | |



Stick this stub on top of envelope to the right of the return address.

PS Form 3800, June 1985



Certified Mail
Return Receipt Requested

January 2, 1995

Mr. Lowell Braxton, Associate Director-Mining
State of Utah
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Copy [unclear] [unclear]
RAM

Re: J.B. King Mine, ACT/015/002, Folder #2, Emery County, Utah -Progress Report - Field Abatement of NOV's #91-32-6-1 & #93-25-3-1 was completed on December 22, 1994.

Dear Lowell:

As you are probably aware, field abatement of NOV's #91-32-6-1 & #93-25-3-1 began November 21, 1994 and was completed December 22, 1994. In addition, a *Permit Amendment* to the J.B. King Reclamation Plan was mailed to your office on November 28, 1994, care of, Ms. Pamela Grubaugh-Littig. However, to date I have not had any written response as to the completeness or acceptability of that submittal. Once our surveyor has completed transcribing his notes and drafting the results of those surveys, I'll send you as-built drawings of the completed fieldwork. Hopefully, I'll have these to you by the end of January or sooner.

An invoice for the work completed on the Test Plot will be submitted to your office sometime around mid-January, once I have a thorough accounting of all costs associated with the project. I am planning a site visit to the project on January 10, 1995, to review all completed work, and would like to invite you and any of your staff to join me.

Please let me know if you need any additional information to terminate NOV's #91-32-6-1 & #93-25-3-1.

Sincerely,

E.M. (Buzz) Gerick
Vice President, Operations

CC: D. Haddock, DOGM
J. Helfrich, DOGM



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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

November 2, 1994

E. M. Gerick
Vice President of Operations
Western States Minerals Corporation
250 South Rock Boulevard, Suite 130
Reno, Nevada 89502

Re: Second Request for Time Extension on Notice of Violations N91-32-6-1, N93-25-3-1 and N93-25-5-1, Western States Minerals Corp., J. B. King Mine, ACT/015/002, Folder #3, Emery County, Utah

Dear Mr. Gerick:

The Division has reconsidered your request for extending the abatement periods on Notice of Violations ("NOV") N91-32-6-1, N93-25-3-1 and N93-25-5-1. This last NOV has been terminated and the Division is sending notice of this action under separate cover. While we understand your concerns about having adequate and mutually agreeable plans in place for abatement of N91-32-6-1 and N93-25-3-1, we do not feel that further delays are acceptable or that extending the time will provide any clearer picture of what needs to be accomplished on the ground. Our October 3, 1994, letter authorized you to proceed with field work. You have indicated that it is unclear which of the numerous past proposals is the one that the Division has authorized. For the sake of clarification, the Division hereby authorizes you to follow and use your February 1994, Appendix to Permit plus the modifications and supplemental information provided through October 26, 1994, with the following corrections:

- 1) The proposed "toe ditch" should not be constructed.
- 2) That during the construction of the main channel and feeder ditch, WSMC provide for the least amount of lateral disturbance while yet providing for the passage of the required design storm. This can be achieved through the use of side slopes greater than 2h:1v. However, any areas of the channel excavation where the side slopes appear unstable in the field will be laid back to a maximum of 2h:1v to achieve a minimum flow design cross-section. The decision to construct greater than 2h:1v side slopes will be determined based on visual observation during construction and verified through "as-builts" after construction.
- 3) That vegetative standards will remain as specified in the currently approved plan.

Page 2
E. M. Gerick
ACT/015/002
November 2, 1994

- 4) That an average of four feet of cover be maintained on the side slopes of the refuse pile.

The Division feels that you now have final approved plans for NOV abatement. Granted, they may not be readily insertable into your overall reclamation plan, but we feel they are acceptable for construction purposes and getting them incorporated can be accomplished later. Particularly since "as-built" designs will be required.

Again, we want to stress the importance of getting the NOVs abated.

We encourage you to proceed with the abatement of the NOVs as expeditiously as possible. In order to accommodate the tight time frame which you now have, we will consent to extend the abatement period to November 30, 1994. The Division will review the mining and reclamation plan in early December 1994, to determine if the updates to the MRP required for NOV abatement have been submitted. A field inspection will also be conducted in early December to determine your compliance with the abatement requirements.

Please call if you have any questions.

Sincerely,



Lowell P. Braxton
Associate Director, Mining

vb
cc: D. Haddock
J. Helfrich
H. Sauer
T. Munson
PROCEED.JBK



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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

October 3, 1994

E. M. Gerick, Vice President of Operations
Western States Minerals Corporation
250 South Rock Boulevard, Suite 130
Reno, Nevada 89502

Re: Finalization of Reclamation Plan Review, Western States Minerals Corporation, J. B. King Mine, ACT/015/002, Folder #3, Emery County, Utah

Dear Mr. Gerick:

The Division has completed a review of your revised reclamation plans for the J. B. King Mine site. Your plans are considered adequate to allow the proposed construction to proceed with the following conditions.

1. That the sides of the refuse pile be covered with a minimum of 4 feet of suitable cover material.
2. That an effective measure be implemented to control erosion of the refuse pile slopes.
3. That analysis of the excavated channel material as well as the sewage sludge be provided in order to determine their suitability for use as cover material.
4. Upon decommissioning, the old channel areas must be softened to blend in with the existing surroundings and provide areas beneficial to plant growth. Disturbance to existing vegetation should be avoided.
5. Construction of the main channel must, at a minimum, meet the criteria of a 100 year-6 hour storm. Excavation must be evaluated in the field to insure that coal or other detrimental materials, unearthed during construction, are adequately handled and that channel slopes will remain stable per the criteria outlined in the approved PAP.
6. Within 30 days, your NOV abatement and accepted reclamation plans must be formatted for insertion to the overall J.B. King Reclamation Plan in order to bring it up to date. Eight (8) copies will need to be submitted.

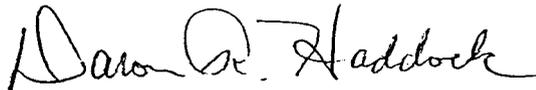
We encourage you to proceed with the construction activities as quickly as possible.

Page 2
ACT/015/002
September 30, 1994

While your plans are adequate to allow construction at the site to proceed, there are still a number of problems with your proposed methods to determine a revegetation and erosional standard for the minesite. As discussed on the phone, the Division is willing to facilitate a meeting between our technical staffs to work out an acceptable solution to this problem. It is agreed that at the conclusion of this meeting, criteria for evaluating revegetation and erosion at the J. B. King minesite will be established. A facilitator may be utilized if necessary. It is also understood that if an acceptable method cannot be agreed upon, Western States Minerals Corporation may request a hearing before the Board pursuant to R645-300-200. The meeting should be scheduled within the next 30 days. Please call to make arrangements.

We appreciate your help during the permitting process. Please call if you have any questions.

Sincerely,



Daron R. Haddock
Permit Supervisor

cc: L. Braxton
P. Grubaugh-Littig
T. Munson
H. Sauer
S. White
BUZZLETT.JBK