S/001/0035
Peter

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Color Country District Office
Cedar City Field Office
176 East DL Sargent Drive
Cedar City, UT 84721
Telephone (435) 865-3000
www.blm.gov/ut/st/en/fo/cedar_city.html

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In Reply Refer To:
UTC01000
3809: UTU-89841

RECEIVED
APR 17 2014
DIV. OF OIL, GAS & MINING

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
7013 1090 0000 3234 8524

April 10, 2014

DECISION

David L. Penney
Penney's Gemstones, LLC
P.O. Box 312
Beaver, Utah 84713

Plan of Operations Approved – Conditions of Approval Required
Determination of Required Financial Guarantee Amount

The plan of operations for the Sliver 1 & 2 Picasso marble mine (DOGM file S/001/0035, BLM file UTU-89841) is hereby approved subject to conditions of approval listed below and the posting of the necessary reclamation bond.

An environmental assessment was prepared to analyze the direct and connected action impacts from the proposed disturbances on BLM managed lands in the plan of operations. I signed the Decision Record on April 8, 2014 authorizing the plan activities, subject to certain mitigation and monitoring measures. Penney's Gemstones, LLC must conduct operations as described in the plan of operations and in accordance with the following BLM conditions of approval:

Conditions of Approval:

1. The performance standards found at 43 CFR 3809.420 apply to the plan of operation.

2. The operator should avoid all underground workings by at least 100' so as to protect them from disturbance, including large vibrations. If this is not possible, then a bat survey should be initiated.

3. To avoid impact to nesting migratory birds, the work should be implemented between August 1 and March 14. If this is not possible, it is recommended that mining operations avoid the middle of the nesting season, which is May 1 to July 15.

4. The operator should avoid disturbances to nearby riparian habitat and avoid staging operations adjacent to riparian habitat.

5. Interim reclamation (broadcast seeding) is required for all topsoil and overburden areas.

6. The operator is responsible for controlling any noxious weeds occurrences on the project area.

Financial Guarantee

The reclamation bond for the permit area as a whole was estimated at $13,000. You must not begin activities under the approved plan until you have posted the bond amount with the BLM State Office or the Division of Oil, Gas and Mining.

Approval of a plan of operations by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claim involved in the mining operation. You are responsible for obtaining any use rights or local, state or federal permits, licenses, or reviews that may be required for the operation.

Appeal of the Decision

If you are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request must be received in the Utah BLM State Office at P.O. Box 45155-0155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal at this office: BLM Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721 from which we will forward your appeal to the IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed at BLM Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, UT 84721 within 30 days from receipt of this decision. As the appellant, you have

the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1, which contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If you have any questions, please contact Ed Ginouves of my staff at 435-865-3040.

Sincerely,

Elizabeth R Burghard

Elizabeth Burghard
Field Office Manager

Enclosure: BLM Form 1842-1
cc: Peter Brinton, DOGM (Sliver 1 & 2 small mine permit, S/001/0035)
Opie Abeyta, UT-923

Form 1842-1
(September 2006)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS
1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... Elizabeth Burghard, Field Office Manager
BLM - Cedar City Field Office
176 E DL Sargent Dr
Cedar City, UT 84721

WITH COPY TO SOLICITOR... John Steiger
Office of the Regional Solicitor
125 S State St, Suite 6201
Salt Lake City, UT 84138

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR..... John Steiger
Office of the Regional Solicitor
125 S State St, Suite 6201
Salt Lake City, UT 84138

4. ADVERSE PARTIES..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)