State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas & Mining

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Lieutenant Governor

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Executive Director

LOWELL P. BRAXTON
Division Director

Notice of Violation ☐ No. _____
Cessation Order ☒ No. MC-07-01-10

CERTIFIED RETURN RECEIPT # _____
(posted on site 9-12-07)

To the following Permittee or Operator:

Permittee/Operator Name: David Penny dba Penny's Gemstones LLC

Mine Name: Lucin Variscite Mine ☒ Surface ☐ Underground ☐ Other

County: Box Elder State: UT Telephone Number: 435)438-5522

Business Address: 2400 East 30 South Beaver, UT 84713

Permit Number: S/003/034

Ownership Category: ☐ State ☒ BLM ☐ USFS ☒ Fee ☐ Other

Date of Inspection: 9-12-07 Time: 3:00 ☐ a.m. ☒ p.m. to 4:30 ☐ a.m. ☒ p.m.

Under authority of the Utah Mined Land Reclamation Act, Section 40-8-1 et seq., ***Utah Code Annotated,*** 1953, the undersigned authorized representative of the Division of Oil, Gas, and Mining has conducted an inspection of above mine on above date and has found that a Notice of Violation or Cessation Order must be issued with respect to the conditions, practices, or violations listed. In accordance with Section 40-8-9, ***Utah Code Annotated,*** you are ordered to cease immediately the operations or activity described and to perform the required actions described within the designated time for abatement.

The undersigned representative finds that **this order** ☐ **does require cessation of all mining**;
☒ **does not require cessation of all mining**.

For this purpose, "mining" means development of, or extraction of a mineral deposit, including transportation within or from the mine site, concentrating, milling, evaporation, or other processing. Mining and/or reclamation operations not directly the subject of this order shall continue while this order is in effect. You are responsible for doing all work in a safe and workmanlike manner.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas, and Mining.

Date of service/mailing: posted 9-12-07 Time of service/mailing Posted 4:30 PM ☐ a.m. ☐ p.m.

Permittee or Operator Representative _____ Title _____

Signature _____

Lynn Kunzler — Environmental Scientist
Division of Oil, Gas & Mining Representative — Title

Signature

SEE REVERSE SIDE

1594 West North Temple, Suite 1210, PO Box 145801, Salt Lake City, UT 84114-5801
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IMPORTANT – READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Division of Oil, Gas, and Mining (DOGM) assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the DOGM will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be final unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to $5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of $750 for each day of continuing violation beyond the time set for abatement. In addition, if you fail to abate any violation as required you will be issued a Cessation Order requiring you to cease mining operations on the portion of the operations relevant to the violation.

2. STOP WORK CONFERENCE.

A Stop Work Conference may be requested if this notice requires cessation of all mining. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice requires cessation of all mining. (See Utah Admin. R647-6-102.4 et seq.)

You must request the Stop Work Conference within 30 days after service of this Cessation Order. The conference must be held within 5 days of your request. You will be notified of the date, time, and location of the conference.

Please send your conference request to:

Administrative Secretary
Associate Director of Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice, order or proposed assessment before the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in Utah Admin. R. 647-5 et seq.

4. INDIVIDUAL CIVIL PENALTIES.

An additional individual civil penalty of up to $5000 per day may be assessed against any corporate director, officer, or agent who knowingly and willfully authorized, ordered or carried out a violation or who fails or refuses to comply with an order.

For further information, consult ***Utah Code Annotated*** Section 40-8-9, 9.1, Utah Admin. R. 647-6, 7, 8 seq. or contact the Division of Oil, Gas, and Mining at (801) 538-5304.

Notice of Violation / Cessation Order NO. MC-07-01-10

Violation No 1 of 1 Page 2 of 2

Nature of condition, practice, or violation

Mining outside permitted & Bonded area

Provisions of act, regulations, or permit violated

R647-3-115

(Check box if appropriate)

__ Condition, practice, or violation is creating an imminent danger to health or safety of the public

X Permittee/Operator is/has been conducting mining activities without a permit

__ Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources

__ Permittee or Operator has failed to abate Violation(s) No _____ included in Notice of Violation No or Cessation Order No M_____ within time for abatement originally fixed or subsequently extended

Mining activity to be ceased immediately

All mining activity outside permitted area

Affirmative obligation(s) or required action and abatement time (if applicable)

By Oct 31, 2007, either have disturbance outside permitted area reclaimed, or amend current Notice of Intent to include this area. Adequate reclamation surety must be provided.

jb Mike Nelson, BLM
cc DOGM
Operator
File
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