7004

Citation for Non-Compliance

Utah Minerals Regulatory Program

1594 West North Temple, Salt Lake City, UT 84114
Phone: (801) 538-5340 Fax: (801) 359-3940

Citation #: MC-2015-17-09

Permit Number: S/003/0034

Date Issued: 11/18/2015

☐ NOTICE OF VIOLATION ☑ CESSATION ORDER (CO) ☐ FAILURE TO ABATE CO

Permittee Name: Penney's Gemstones, LLC / David Penney	**Inspector ID and Number:** Lynn Kunzler, #17
Mine Name: Lucin Variscite Mine	**Date of Inspection:** November 18, 2015
Certified Return Receipt Number: 7014 2870 0001 4231 9203	**Date and Time of Service:** 9:35AM

Nature of condition, practice, or violation:

Failure to remit annual permit fees for 2013, 2014, and 2015

Provisions of Act, regulations, or permit violated:

UMC 40-8-7(1)(i)
R647-3-101.5 R647-3-102

For Cessation Orders and Failure to Abate CO's, check appropriate box(es) below:

☑ **This order requires Cessation of ALL mining activities.**

Or

☐ **This order requires Cessation of PORTION(S) of the mining activities.**

Mining activities to be ceased immediately:

All mining related activities and removal of previously mined/stockpiled materials
Failure to remit the annual permit fee automatically suspends the Notice to conduct mining operations.

☐ Condition, practice, or violation is creating an imminent danger to health or safety of the public.	☑ 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 has failed to abate Violation included in Citation # within time for abatement originally fixed or subsequently extended.

Abatement/corrective action(s) required (for all Citations):	**Abatement Times** (if applicable)
Remit past due permit fees of $450.00 ($150.00 each for 2013, 2014, 2015)	By December 31, 2015

David Penney Permittee Representative (Print)	Lynn Kunzler DOGM Representative (Print)
Permittee Representative's Signature / Date	DOGM Representative's Signature / Date 11/18/2015

SEE REVERSE SIDE Of This Form For Instructions And Additional Information

Original – DOGM Files Copy – Permittee

Form: MinCitation-- Last Revised – September, 2008

IMPORTANT – READ CAREFULLY

Pursuant to the Utah Mined Land Reclamation Act, Utah Code Ann. § 40-8-1 et. seq. (Act), the undersigned authorized representative of the Division of Oil, Gas, and Mining (DOGM) has conducted an inspection and found that a Citation in the form of a Notice of Violation or Cessation Order must be issued.

This Citation shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of DOGM.

1. **PENALTIES.**

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

Proposed assessment. DOGM assesses fines based upon a proposed recommendation by an assessment officer. If there is additional information you wish DOGM to consider regarding the citation and proposed fine, please submit that to DOGM within ***15 days of the date this citation is served on you or your agent.*** Such information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. Once DOGM has determined the proper penalty, it will serve the proposed assessment on you or your agent, within 30 days of the issuance of this citation. See Utah Admin. Code R647-7-105 et. seq.

The penalty will become final unless you or your agent file, within 30 days of receipt of the proposed assessment, a written request for an informal conference before an assigned conference officer.

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

2. **STOP WORK CONFERENCE.**

On the reverse side of this page, an authorized representative has made a finding as to whether or not this citation requires cessation of mining. If this citation requires cessation of mining, expressly or in practical effect, you may request that a stop work conference be held at or near the mine site. If you wish such a conference to be held, send your request to:

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

See Utah Admin. Code R647-6-102.4 et seq. Once a stop work conference is scheduled, you will be notified of the date, time, and location of the conference. You must request the stop work conference within 30 day after service of this cessation order. The conference will be held within 5 days of your request.

3. **FORMAL REVIEW AND TEMPORARY RELIEF.**

You may appeal this citation to the Board of Oil, Gas, and Mining by submitting: a) a petition for hearing to the Board within 30 days of receipt of this notice, order or proposed assessment; and b) an amount equal to the proposed, reassessed or affirmed penalty to the Division. See Utah Admin. Code R647-7-107 et. Seq. Please submit the application for hearing 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 citation. Procedures for obtaining a formal board hearing are contained in the Board's Rules of Practice and Procedure and in Utah Admin. Code R647-5 et. seq.

4. **INDIVIDUAL CIVIL PENALTIES.**

An additional Individual Civil Penalty of up to $5,000 per day may be assessed against a corporate director, officer or agent who knowingly and willfully authorizes, ordered or carried out a violation or who fails or refuses to comply with an order. For further information, consult Utah Code Ann. § 40-8-9 through 40-8-9.1 and Utah Admin. Code R647-6 through R647-8 et. seq., or contact the Division of Oil, Gas, and Mining at (801) 538-5340.