S/019/055

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Moab Field Office
82 East Dogwood
Moab, Utah 84532

TAKE PRIDE IN AMERICA

3809
UTU-69828
(UT-062)

March 8, 2005
Certified Mail – Return Receipt Requested
Certified No. – 7004 2510 0003 2990 1355

MAR - 8 2005

DECISION

Mrs. Ila Stewart
5907 Sultan Circle
Murray, Utah 84107

Noncompliance Order
43 CFR 3809.601(a)

Your letter to the BLM to conduct and/or continue mining operations, Notice UTU-69828, at the Payday 1, 2, and 3 Placer Claims located in Grand County, was received in the Moab Field Office on December 30, 2004.

The BLM would like to remind you that according to Federal Regulations "all equipment at the site must be maintained and operable." There is a long history of correspondence with you regarding trash and non-operable equipment stored on the site, and you have been asked on numerous occasions to remove that equipment and reclaim the mine site, and assured the BLM that you would rectify the situation.

An inspection was conducted by BLM Geologist Frank Bain and Realty Specialist Mary von Koch on March 3, 2005 of your Payday Mine site. During the inspection no mining activity was observed and other than the BLM personnel, no one was present at the mine site. The inspection revealed the following:

1. Inoperable equipment is still present at the mine site including a yellow colored non motorized earth mover and the steel frame of a large sluice box.
2. Timely reclamation of the mining operation has not been completed, a violation of 43 CFR 3809.334(b)(2), that states that the BLM will "require you after an extended period of non-operation for other than seasonal operations, to remove all structures, equipment, and other facilities and reclaim the project area" and 43 CFR 3809.424(3) that states "If your operations are inactive for 5 consecutive years, BLM will review your operations and determine whether BLM should terminate your plan of operations and direct final reclamation and closure."

RECEIVED
MAR 10 2005
DIV. OF OIL, GAS & MINING

Since no current Plan of Operations or a Reclamation Bond is on file with the BLM, the BLM considers your operation to be inactive and in noncompliance. Therefore the BLM hereby requests that you complete the reclamation and closure of your mining operations on the Payday claims within 90 days of receipt of this letter. Needed reclamation includes removing all equipment and trash and reclaiming and reseeding the area disturbed by mining.

A reclamation plan must be filed within 30 days of receipt of this noncompliance order. The reclamation plan must address the removal of all abandoned equipment, the recontouring of the site and the date when you expect all reclamation work will be completed. No ground disturbing work should commence until the reclamation plan is approved by this office. Please submit your plan to Frank Bain, Moab Field Office Geologist. He may be contacted at 435-259-2141.

If you do not comply with this order, the Department of the Interior may request, pursuant to 43 CFR 3809.604, the United States Attorney to begin a civil action in United States District Court for an injunction or order to enforce its order, prevent you from conducting operations on the public lands in violation of this subpart, and collect damages resulting from unlawful acts, that will include the costs the BLM incurs in removing, disposing of, and reclaiming the property in accordance with 43 CFR 3809.605(h).

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, 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, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. 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 a review of this decision within 21 days of BLM's receipt of said request, you should consider the request declined and you may appeal the decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when the BLM received the request for a State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed with the Moab Field Office, 82 E. Dogwood Avenue, Moab, Utah 84532 within 30 days from receipt of this decision. The appellant has the burden of showing that the appealed decision is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 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 regulation, 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.

Sincerely,

Maggie Wyatt

Maggie Wyatt
Field Manager

Enclosures:

Form 1842-1
Copy of correspondence dated July 29, 2003
Copy of Plan of Operations dated Sept. 4, 1986
Mine site photos showing abandoned equipment

cc: Paul Baker, Utah Dept. of Natural Resources, Division of Oil, Gas, and Mining
Terry Snyder, BLM Utah State Office (UT-923)

Form 1842-1
(October 2004)

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..... Within 30 days after the date of publication of a decision in the FEDERAL REGISTER, a person not served with a decision must transmit a Notice of Appeal to the office where it is required to be filed. You may state your reasons why you are appealing, if you desire.

2. WHERE TO FILE
NOTICE OF APPEAL.....
WITH COPY TO SOLICITOR....

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 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary

WITH COPY TO SOLICITOR...

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 (see 43 CFR Sec. 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.

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 (see CFR Sec. 4.401(c)(2)).

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 (see 43 CFR 4.21). If you wish to file a petition pursuant to 43 CFR 4.21 or 43 CFR 2804.1 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. 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 (see 43 CFR Sec. 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 other 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 likelihood of the appellant's success on the merits, (2) the likelihood of immediate and irreparable harm if the stay is not granted, (3) the relative harm to the parties if the stay is granted or denied, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 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 (see 43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(continued on next page)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 *Where are BLM offices located?* (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State--Alaska
Arizona State Office--Arizona
California State Office--California
Colorado State Office--Colorado
Eastern States Office--Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River
Idaho State Office--Idaho
Montana State Office--Montana, North Dakota and South Dakota
Nevada State Office--Nevada
New Mexico State Office--Kansas, New Mexico, Oklahoma and Texas
Oregon State Office--Oregon and Washington
Utah State Office--Utah
Wyoming State Office--Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

Sec. 1821.11 *During what hours may I file an application?* You may file applications or other documents or inspect official records during BLM office hours. Each BLM office will prominently display a notice of the hours during which that particular office will be open. Except for offices which are open periodically, for example, every Wednesday or the 3rd Wednesday of the month, all offices will be open Monday through Friday, excluding Federal holidays, at least from 9 a.m. to 3 p.m., local time.

Sec. 1821.12 *Are these the only regulations that will apply to my application or other required document?* No. These general regulations are supplemented by specific program regulations. You should consult the regulations applying to the specific program.

Sec. 1821.13 *What if the specific program regulations conflict with these regulations?* If there is a conflict, the specific program regulations will govern and the conflicting portion of these regulations will not apply.

43 CFR SUBPART 1822--FILING A DOCUMENT WITH BLM

Sec. 1822.10 *How should my name appear on applications and other required documents that I submit to BLM?* Your legal name and current address should appear on your application and other required documents.

Sec. 1822.11 *What must I do to make an official filing with BLM?* You must file your application and any other required documents during regular office hours at the appropriate BLM office having jurisdiction over the lands or records involved. You must file any document with BLM through personal delivery or by mailing via the United States Postal Service or other delivery service, except for those applications that may be filed electronically under Sec. 1822.13, unless a more specific regulation or law specifies the mode of delivery. The date of mailing is not the date of filing.

Sec. 1822.12 *Where do I file my application or other required documents?* You should file your application or other required documents at the BLM office having jurisdiction over the lands or records involved. The specific BLM office where you are to file your application is usually referenced in the BLM regulations which pertain to the filing you are making. If the regulations do not name the specific office, or if you have questions as to where you should file your application or other required documents, contact your local BLM office for information and we will tell you which BLM office to file your application.

Sec. 1822.13 *May I file electronically?* For certain types of applications, BLM will accept your electronic filing if an original signature is not required. If BLM requires your signature, you must file your application or document by delivery or by mailing. If you have any questions regarding which types of applications can be electronically filed, you should check with the BLM office where you intend to file your application. When you file an application electronically, it will not be considered filed until BLM receives it.

Sec. 1822.14 *What if I try to file a required document on the last day of the stated period for filing, but the BLM office where it is to be filed is officially closed all day?* BLM considers the document timely filed if we receive it in the office on the next day it is officially open.

Sec. 1822.15 *If I miss filing a required document or payment within the specified period, can BLM consider it timely filed anyway?* BLM may consider it timely filed if: (a) The law does not prohibit BLM from doing so; (b) No other BLM regulation prohibits doing so; and (c) No intervening third party interests or rights have been created or established during the intervening period.

Sec. 1822.16 *Where do I file an application that involves lands under the jurisdiction of more than one BLM State Office?* You may file your application with any BLM State Office having jurisdiction over the subject lands. You should consult the regulations of the particular BLM resource program involved for more specific information.

Sec. 1822.17 *When are documents considered filed simultaneously?*
(a) BLM considers two or more documents simultaneously filed when: (1) They are received at the appropriate BLM office on the same day and time; or (2) They are filed in conjunction with an order that specifies that documents received by the appropriate office during a specified period of time will be considered as simultaneously filed.
(b) An application or document that arrives at the BLM office where it is to be filed when the office is closed for the entire day will be considered as filed on the day and hour the office next officially opens.
(c) Nothing in this provision will deny any preference right granted by applicable law or regulation or validate a document which is invalid under applicable law or regulation.

Sec. 1822.18 *How does BLM decide in which order to accept documents that are simultaneously filed?* BLM makes this decision by a drawing open to the public.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Moab Field Office
82 East Dogwood
Moab, UT 84532
www.ut.blm.gov

IN REPLY REFER TO:
3809 (U-062)
UTU-69828

CERTIFIED MAIL # 7001 2510 0008 1593 1760
RETURN RECEIPT REQUESTED

July 29, 2003

Ms. Ila Stewart
4196 Wasatch Meadows Drive
West Jordan, UT 84088

Dear Ms. Stewart:

We received your request to extend notice UTU-69828 on December 18, 2002 and have completed a site inspection to determine a reclamation cost estimate for your operation. This reclamation cost estimate has been completed for you and is enclosed for your reference. If you do not agree with the amount as calculated, $11,204.00, please provide an estimate of your own for our review, recognizing that it must be calculated as if the Bureau of Land Management (BLM) were hiring a third-party contractor to perform reclamation of your operations after you have vacated the project area (43 CFR 3809.554).

Once an amount is agreed upon, you must provide a financial guarantee within sixty (60) days of notification. The BLM will then review your financial guarantee and notify you when it has been accepted. In the interim, your notice is temporarily and conditionally extended for 2 years, until January 20, 2005, in accordance with 43 CFR 3809.333. Additional financial guarantee information is available at http://www.ut.blm.gov/mineralsadjudication/. From that web site, scroll down to 'Mining Law/Locatable Minerals' and select the link for 'Surface management bond information.'

A review of case file UTU-69828 indicates that this site has been idle since 1989 and that there has been mining debris and trash at this site since at least 1991. A documented telephone conversation between yourself and Sal Venticinque of this office indicates that you agreed to remove that debris by the fall of 1994. However, our recent inspections and photographs indicate that although a shed and a building were removed within that time frame, there is still a considerable amount of debris including a refrigerator and empty barrels that needs to be removed by January 1, 2004.

To discuss mining operations and reclamation opportunities at this site, please contact Denice Swanke at (435)259-2141. Thank you for your assistance in bringing your operation into compliance with the new 3809 regulations.

Sincerely,

Margaret Wyatt
Field Office Manager

Enclosures:
Reclamation cost estimate
Reclamation cost model
Aerial photograph/map of site disturbance

cc: Paul Baker
Utah Department of Natural Resources
Division of Oil, Gas and Mining
1594 West North Temple Suite 1210
Salt Lake City, Utah 84114-5801
Re: DOE/019/031

Warren Stewart
1245 Knutson
Moab, Utah 84532

bcc: Opie Abeyta, U-924 (w/o enclosures)
T. Snyder, U-923

Bureau of Land Management
P.O. Box M
Moab, Utah 84532

RECEIVED
GRAND RESOURCE AREA
1986 SEP -4 PM 2:31
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT

(For BLM Use) Serial No. ~~U60 U86 16~~ UTU-69828

NOTICE
OR
PLAN OF OPERATIONS
(For Operations Proposed Under the 43 CFR 3809 Regulations)

Instructions: Circle "Notice" (above) if proposed mining activity within the project area will disturb a total of five (5) acres or less during the calendar year. Circle "Plan of Operations" if disturbance will exceed five acres during the calendar year or if operations are within one of the specially designated areas described in 43 CFR 3809.1-4 (b). Complete the form in as much detail as possible. Additional sheets may be used if necessary. Use maps or sketches where appropriate. A review of the 43 CFR 3809 regulations should be conducted prior to completion of this form.

Operator Information:

Name	Address	Telephone
Clive L. Stewart	~~Box 308~~ ~~LaSal, Utah 84530~~ BOX 236 MOAB, UTAH 84532	259-4323 ~~686-2345~~

Claimant Information (If different than operator):

Name	Address	Telephone
SAME AS ABOVE		

Claim Information (Claim names, circle claim types (Lode, Placer, Mill Site, Tunnel), BLM Serial No.):

Payday #1 Grand County Book 183 Page 89 UMC#120016
Payday #2 " " " 183 " 90 UMC#120017

Location of Proposed Activity (i.e. Township, Range, Section):

Sec. 17 & 20 T24S, R23E SLBM
Lot 1 Lot 1

Describe Existing Disturbance and Structures or Indicate on Maps or Sketches (Mine and Mill Facilities, Workings, Tailings, Dump Areas, etc. It may be to your advantage to document existing disturbance with photographs):

Pit on the North End of Proposed mining Area (See Map #3)

Proposed Operations: Describe the entire proposed operation, including all surface disturbing activities (road construction, drilling, trenching, backhoe, and bulldozer exploration, mining, waste disposal, etc.) List all mechanized earth moving equipment to be used during the operation and state if explosives are to be utilized. Describe and furnish a map or sketch, when applicable, showing the locations and size of areas where surface disturbances are proposed, including existing and/or proposed routes of access. Calculate the total acreage proposed for disturbance (1 acre = 43,560 sq. ft.).

My Plan for operation is to Remove 12" of top Soil and Stock pile it at the S.E. Corner of the Proposed Mine Area (See Map #3) then Remove Additional overburn and Stock Pile it on the South End of Proposed Mine Area (See Map #3) then Remove Gravels and Process thru Mill on East Side of Proposed mine Area (See Map #3)

Water will taken from the Colo. River (a seep) thru Retuned to Pit area and Allow to Seep Back to River

Milling Processing will Consist of dumping Grave thru a 4"- grizzly then Conveyed to a Bin where water will be added, then down a 16' Flum to a wet Grizzly of 1"-minus then down additional Flum to a 3/8" Minus Wet Grizzly then over Sluce Box's, Equip will dozer, Loader, Pan Feeder Aerator, Conveyor Belt, all tailings will be Returned to the Area Vacated by the Removal of Gravel's

Period of Operation: From Oct 1st 1986 To

Proposed Reclamation: Describe the proposed reclamation procedures and other measures to be taken to prevent unnecessary or undue degradation of the lands, including measures to be taken if a period of nonoperation is anticipated.

Reclamation will Consist of Replacing overburd then top Soil and planting the proper Vegi-tation, at the present Various typ's of Equip is on the property left by Montague Metal a past lessee if it is not Reclaim by Sept. 20th 1986 I will be Responsible for it & the Reclaimation of their Exploratory hole

I will complete all necessary reclamation of areas disturbed during the course of my operations to the standards described in 43 CFR 3809.1-3 (d) and that reasonable measures will be taken to prevent unnecessary or undue degradation of the federal lands during operations.

Signature of Operator: Sept. 4 1986 Date [signature]

NOTICE TO OPERATORS:

1. A notice submitted in relation to the 43 CFR 3809 regulations does not require approval from the BLM. However, notification of such activities shall be made at least 15 calendar days before commencing operations. Receipt of a notice will be acknowledged promptly. Approval of a submitted plan of operations is required from the BLM prior to commencing operations. The BLM will promptly acknowledge receipt of a submitted plan and will notify the operator of the status of the plan within 30 days of receipt of the plan.

2. Submittal of a notice or approval of a plan of operations does not constitute certification of ownership to any person named as owner herein, nor does it constitute recognition of the validity of any mining claims named herein.

3. Generally, information that could be considered proprietary is not necessary to fulfill notice or plan of operations requirements. However, information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information should be attached to a separate page and cited in the text of the notice or plan of operations. This information will be filed separately and will not be available for public inspection.

4. Failure of operator to file a notice or a plan of operations, as required by the 43 CFR 3809 regulations, will subject the operator to being served a notice of noncompliance or enjoined from the continuation of such operations by a court order until such time as a notice or plan is filed with the BLM.