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State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

MARY ANN WRIGHT
Acting Division Director

April 14, 2005

CERTIFIED RETURN RECEIPT
7002 0510 0003 8603 3295

Mr. Tony Christofferson
H.E. Davis Construction, Inc.
525 West Arrowhead Trail
P.O. Box 488
Spanish Fork, Utah 84639

Subject: In the Matter of Findings of Fact of the Violation, Informal Conference, Cessation Order **MC-05-04-01**, Levan Chicken Creek Mine, M/023/016, Juab County, Utah

Dear Mr. Christofferson:

On April 5, 2005, the Division of Oil, Gas and Mining (Division) held an Informal Conference examining the Facts of the Violation, for the Cessation Order MC-05-04-01 issued January 25, 2005 to H.E. Davis Construction for their Levan Chicken Creek Mine, M/035/023, located in Juab County, Utah. The following individuals attended: Presiding: Mark Mesch, Acting Associate Director, Mining; Steve Alder, Attorney Generals Office; Daron Haddock, Permit Supervisor and Tom Munson, Senior Reclamation Specialist with DOGM; Tony Christofferson and Kay Christofferson.

The Findings & Conclusions and Order in this matter are based on information provided by the Division and Misters Christofferson, and on information in the files of the Division.

FINDINGS & CONCLUSIONS

1. Cessation Order MC-05-04-01 was issued on January 25, 2005, by inspector Tom Munson for 'Failing to secure the Division's approval prior to conducting Large Mining operations' which required all mining to cease.

2. In a letter received March 18, 2005, Mr. Christofferson requested an Informal Conference on the finding of the fact of the violation.

3. An Informal Conference was scheduled and held April 5, 2005 at 1:30 p.m., in accord with R647-6-102.4.

4. Mr. Munson discussed a May 5, 2004 "Notice of Conditional Tentative Approval" letter, which was contingent upon obtaining all clearances and approvals from the USFS. This would have to occur before the Division would publish tentative approval in the newspapers for the required 30-day public comment period. Also, before formal approval could be issued, a $260,100 surety (or larger, depending on FS) would be required. (Note: a $226,100 surety has already been submitted).

5. Tony Christofferson stated that approval from the FS was their intent but the FS had problems with the maps OGM had previously accepted. The operator had the maps redone.

6. Tony Christofferson stated that the FS had required a cultural survey of the site but had not provided a permit to the cultural resource firm after many requests, thus creating a delay. However, no supporting documentation of multiple requests was provided.

7. Once the permit to allow the cultural survey was issued, snow covering prevented any cultural survey work from being conducted, and that it was now scheduled for spring.

8. From the language in the May 5, 2004 letter, it appears that the operator was advised that they were not authorized to expand their operations or create additional disturbances without written approval from the Division.

9. The operator interpreted this statement to mean that mining could occur within the existing footprint of the mine (only additional disturbances would require further approval).

10. Based on the confusion in the documents, the lack of supporting documentation and the fact that no mining is currently occurring, it is concluded by the Conference Officer that the Cessation Order is vacated.

ORDER

1. Cessation Order MC-2005-04 01, issued January 25, 2005, is hereby vacated. Since the Cessation Order is vacated, the proposed assessment no longer applies.

2. The operator is to submit the required permit application information and the cultural resource evaluation to the Division no later than April 8, 2005.

If you wish to appeal this Order, you may do so by contacting the Division within 30 days of receipt. Please contact Penny Berry at 801-538-5257 or Daron Haddock at 538-5325.

Sincerely,

Mark Mesch
Acting Associate Director

MM:DRH:jb
cc: Daron Haddock, DOGM
Tom Munson, DOGM
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