JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

March 9, 2010

Certified Return Receipt
7003 2260 0002 0247 9284

Robert Steele
1065 North 400 East
Nephi, Utah 84648

Allen Young
Young Kester and Petro
75 South 300 West
Provo, Utah 84601

Subject: New Notice of Intention to Commence Small Mining Operations Needed, Robert Steele, Gardner Canyon/Nebo Gypsum Mine, S/023/0015, Juab County, Utah

Dear Mr. Steele and Mr. Young:

The Division of Oil, Gas and Mining needs to receive a new Notice of Intention to Commence Small Mining Operations (NOI) for the Gardner Canyon mine. We appreciate your efforts to have the Division named on the letter of credit and to submit a reclamation contract, but as we discussed in the hearing on December 3, 2009, there are some items in the existing NOI that are outdated, notably the name of the current operator and maps of the area.

Cessation Order MC-2009-42-01 required that the NOI be amended with the corporate name and that the corporate name be registered with the Utah Department of Commerce. The letter of credit with Bonneville Bank is for Triumph Mining Corporation, but the reclamation contract is in the name of Robert Steele, apparently as an individual. We do not know who the operator is, and this can be resolved if you will submit the new NOI.

The Findings of Fact, Conclusions of Law, and Order issued by Associate Director Dana Dean on December 14, 2009, required that you submit "an updated, accurate and, complete NOI" by February 1, 2010. The Failure to Abate Cessation Order (FTACO) was to be held in abeyance as long as all items in the order were completed by this date. The Order also said that the FTACO *may* (emphasis added) be reinstated if the conditions were not met by February 1, 2010. Because of the cooperation you have shown in submitting the letter of credit and reclamation contract, we hope to avoid reinstating the FTACO, but we need to receive the new NOI as soon as possible. **Please submit the NOI no later than March 29, 2010.**

1594 West North Temple, Suite 1210, PO Box 145801, Salt Lake City, UT 84114-5801
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • *www.ogm.utah.gov*

UTAH DNR OIL, GAS & MINING

Enclosed is a copy a blank NOI. You can also access the form at https://fs.ogm.utah.gov/pub/mines/minerals_related/forms/MR-SMO.pdf. If you need any help filling out the form or if you have other questions, please contact me at (801) 538-5261 or Wayne Western at (801) 538-5263. Thank you for your cooperation.

Sincerely,

Paul B. Baker
Minerals Program Manager

PBB:whw:pb
Enclosure: NOI Form, Page 3 of the Order
cc: David Ream, Forest Service
P:\GROUPS\MINERALS\WP\M023-Juab\S0230015-GardnerCanyon\final\LTR-NOI-03082010.doc

11. The requirements of the April 28, 2008, Order were reiterated in a letter dated August 5, 2009, and received by Mr. Steele August 12, 2009. This letter allowed Mr. Steele an additional 15 days (until August 20, 2009) to respond to the Order.

12. On September 1, 2009, the Division issued MC-2009-42-01 for failure to provide adequate bond and to comply with all requirements of the April 28, 2008, Division Order.

13. On September 30, 2009, after no communication from Mr. Steele, the Division issued MC-2009-42-03 for failure to abate MC-2009-42-01.

CONCLUSIONS OF LAW

1. Mr. Steele has had more than adequate time to name the Division as a co-beneficiary on the US Forest Service bond, and to clear up the other issues named in the April 28, 2008, Division Order. He has failed to adequately address the issue, despite being issued two Cessation Orders, and a Division Order in just under one and one-half years.

2. The fact of the violation should stand.

3. Because no damage has occurred, and none is likely to occur in the time frame provided in the Order to post a proper bond, the damage points are reduced to 0.

ORDER

NOW THEREFORE, it is ordered that:

1. The fact of the violation is upheld.
2. The proposed assessment of $2,200 for MC-2009-42-01 is now finalized at $1,430.00.
3. The Failure to Abate Cessation Order (FTACO) is held in abeyance as long as Mr. Steele does the following by February 1, 2010:
   a. Sign and file a Reclamation Contract with the Division.
   b. Provide adequate bond in a form acceptable to the Division. This may consist of providing proof that the Division has been named as a co-beneficiary on the US Forest Service bond, or posting separate surety.
   c. Submit an updated, accurate and, complete NOI.
4. If the above conditions are not met by February 1, 2010 the Failure to Abate Cessation Order may be re-instated and assessed at the maximum amount of $22,500.00.

SO DETERMINED AND ORDERED this 14th day of December 2009

Dana Dean, Associate Director
Division of Oil, Gas and Mining

Form MR-SMO
(Revised September 21, 2009)

This Section for DOGM Use:
Assigned DOGM File No.: S_____
DOGM Lead:_____
Permit Fee $_____ Ck #_____

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
Telephone: (801) 538-5291 Fax: (801) 359-3940

NOTICE OF INTENTION TO COMMENCE SMALL MINING OPERATIONS

The informational requirements of this form are based on provisions of the Mined Land Reclamation Act, Title 40-8, Utah Code Annotated 1987, and the General Rules as promulgated under the Utah Minerals Regulatory Program.

Note on confidentiality: Information provided in the notice of intention relating to the location, size, or nature of the mineral deposit that is clearly marked confidential will be protected as confidential. Each page or map requested to be kept confidential must be stamped or marked as such. The requested confidential information must describe how the confidential material relates to the location size or nature of the mineral deposit; provide a written claim of business confidentiality; and/or include a concise statement of reasons supporting the claim of business confidentiality, unless disclosing the location of explosives or historic, prehistoric, paleontological, or biological resource that must be considered confidential under statute.

"Small Mining Operations" mining operations which have a disturbed area of five or less surface acres at any time.

* * * * * * * * *

I. GENERAL INFORMATION (Rule R647-3-104)

1. Name of Mine:_____

2. Legal name of entity (or individual) for whom the permit is being requested:_____
_____
Mailing Address: _____
City, State, Zip:_____
Phone: _____ Fax:_____
E-mail Address: _____

Type of Business: Corporation ( ) LLC ( ) Sole Proprietorship (dba) ( )
Partnership ( ) General _____ or _____ limited
Or:
Individual ( )

Entity must be registered (and maintain registration) with the State of Utah, Division of Corporations (DOC) www.commerce.utah.gov.
Are you currently registered to do business in the State of Utah? G Yes G No
Entity # _____
If no, contact www.commerce.utah.gov to renew or apply.

Local Business License #_____ (if required)
Issued by: County _____ or City _____

3. **Contact Person(s)**

Name:_____ Title:_____
Address: _____
City, State, Zip:_____
Phone: _____ Fax:_____
Emergency, Weekend, or Holiday Phone:_____
E-mail Address: _____

Contact person to be notified for: permitting ( ) surety ( ) Notices ( ) (please check all that apply)

Name:_____ Title: _____
Address: _____
City, State, Zip: _____
Phone:_____ Fax:_____
Emergency, Weekend, or Holiday Phone: _____
E-mail Address: _____

Contact person to be notified for: permitting ( ) surety ( ) Notices ( ) (please check all that apply)

Registered Utah Agent (as identified with the Utah Department of Commerce) *(if individual leave blank)*:
Name:_____
Address:_____
City, State, Zip: _____
Phone: _____ Fax:_____
E-mail Address: _____

4. **If Business is a Sole Proprietor:**

Name of Owner:_____ Title:_____
Business Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
E-mail Address: _____

If Business is a Corporation:

Name of Officers: _____ Title: _____
_____ Title: _____
_____ Title: _____
_____ Title: _____
Headquarters Address:_____
City, State, Zip:_____
Headquarters Phone: _____ Fax:_____
E-mail Address: _____

If Business is a Limited Liability Company: Member Managed G Manager Managed G

Name of 1st Member/Manager: _____Title:_____
Business Address: _____
City, State, Zip: _____
Phone:_____ Fax: _____
E-mail Address: _____

Name of 2nd Member/Manager: _____
Business Address: _____
City, State, Zip:_____
Phone: _____ Fax:_____
E-mail Address: _____

If Business is a Partnership:
Name of Partner: _____
Business Address: _____
City, State, Zip: _____
Phone: _____ Fax: _____
E-mail Address: _____

5. **Ownership of Land Surface:**

Private (Fee) G Public Domain (BLM) G National Forest (USFS) G
State Trust Land/School Sections G State Sovereign Lands G
Other (please describe): _____
Name _____ Address _____

Name _____ Address _____
Name _____ Address _____
Name _____ Address _____

6. **Ownership of Minerals:**

Private (Fee) G Public Domain (BLM) G National Forest (USFS) G
State Trust Land/School Sections G State Sovereign Lands G
Other (please describe): _____
Name _____ Address _____
Name _____ Address _____
Name _____ Address _____
Name _____ Address _____

BLM Lease or Project File Number(s) and/or USFS assigned Project Number(s): _____
_____

BLM Claim Numbers _____

Utah State Lease Number(s): _____

Name of Lessee(s) _____

7. **Have the above surface and mineral owners been notified in writing?**
Yes _____ No _____

If no, why not? _____
_____

Please be advised that if State Trust Lands are involved, notification to the Division of Oil, Gas and Mining alone does not satisfy the notification requirements of Mineral Leases upon State Trust Lands. Exploration or mining activity on State Trust Lands requires a minimum of 60 days notice to the Trust Lands Administration ***prior*** *to commencing any activities. Please contact the School Institutional Trust Lands Administration (SITLA) at (801) 538-5508 for notification requirements.*

8. **Does the Entity have legal right to enter** and conduct mining operations on the land covered by this notice? Yes _____ No _____

II. PROJECT LOCATION & MAP (Rule R647-3-105)

1. **Project Location & Map** (legal description):

County(ies): _____

____ 1/4, of_____1/4, of_____1/4: Section:_____ Township:_____ Range:_____
____ 1/4, of_____1/4, of_____1/4: Section:_____ Township:_____ Range:_____
____ 1/4, of_____1/4, of_____1/4: Section: _____ Township:_____ Range:_____

UTM East_____ (if known) UTM North_____ (If known)

Name of Quad Map for Location: _____

2. **Location and Operations maps** must be plotted at a scale to accurately identify locational landmarks and operations details. All maps must include a north arrow, scale, appropriate labels, and title box including the mine name, township, range and section.
   a. The **general location map** must be the scale of a USGS 7.5 minute series map or equivalent (1"=2000') and identify new or existing access roads.
   b. The **operations map** (1"=200' or other scale as determined necessary by the Division) must be labeled and identify:
      i. The area to be disturbed;
      ii. The location of any existing or proposed operations including access roads, drill holes, trenches, pits, shafts, cuts, or other planned activities; and
      iii. Any adjacent previous disturbance for which the operator is not responsible.

   (Contact the Division for a list of consultants and land surveyors for mapping assistance.)

3. The proposed (5 acre or less) disturbed area (including access/haul roads) should be marked in the field ON THE GROUND with metal T-Posts (or with some other marker of equal effectiveness). Markers should be appropriately spaced so that the next marker in either direction is clearly visible with the naked eye.

III. OPERATION PLAN (Rule R647-3-106)

1. **Type of mining:** Surface ☐ Underground ☐

2. **Mineral(s) to be mined:** _____

3. **Amount of material** to be extracted, moved, or proposed to be moved: _____

   _____

4. Will any **water, liquid chemicals, reagents, or other solutions** be used, produced or discharged as part of the mining or milling process?
   Yes ☐ No ☐ If yes, please describe (add extra pages if needed)_____

   _____

   _____

5. Provide a brief **description of the proposed mining operation** and onsite processing facilities (add extra pages if necessary). _____

_____

_____

_____

_____

_____

6. ☐ **New Road(s)**: Length_____ (ft) Width_____ (ft)

7. ☐ **Improved Road(s)**: Provide a description of the improvements that need to be made to existing roads to access the site, including the Length _____ (ft) and Width _____ (ft) of new disturbances.

8. Total project surface **acreage to be disturbed**: _____ (acres) PLEASE SPECIFY EXACT ACREAGE - *(this will be used to determine surety bond amount – see #VI)*.

9. Proposed **startup date** (month, year) _____
10. Proposed **completion date**, if known (month, year) _____

IV. OPERATION AND RECLAMATION PRACTICES (Rule R647-3-107, 108 & 109)

The reclamation and operation obligation is to keep the area clean and safe, minimize hazards to public safety, return the land to a useful condition, and reestablish at least 70 percent of the premining vegetative ground cover or within practical limits. To accomplish this, the Permittee / Operator will need to perform reclamation concurrently, or at the completion (within one (1) year) of mining. Please refer to The Practical Guide to Reclamation in Utah, available at https://fs.ogm.utah.gov/pub/MINES/Coal_Related/RecMan/Reclamation_Manual.pdf.

1. *Keep the mining operation in a safe, clean, and environmentally stable condition.*
2. *Permanently seal all shafts and tunnels to prevent unauthorized or accidental entry.*
3. *Plug drill holes with a five foot cement surface plug. Holes that encounter fluids are to be plugged in the subsurface to prevent aquifer contamination.*
4. *Construct berms, fences, or barriers, when needed, above highwalls and excavations.*
5. *Remove, isolate, or neutralize all toxic materials in a manner compatible with federal and state regulations.*
6. *Remove all waste or debris from stream channels.*
7. *Dispose of any trash, scrap metal, wood, machinery, and buildings.*
8. *Conduct mining activities so as to minimize erosion and control sediment.*
9. *Reclaim all roads that are not part of a permanent transportation system.*
10. *Stockpile topsoil and suitable overburden prior to mining.*

11. *Stabilize highwalls by backfilling or rounding to 45 degrees or less, where feasible; reshape the land to near its original contour, and redistribute the topsoil and suitable overburden.*

12. *Properly prepare seedbed to a depth of six inches by pocking, ripping, discing, or harrowing. Leave the surface rough.*

13. *Reseed disturbed areas with adaptable species. (The Division recommends a mixture of species of grass, forb, and browse seed, and will provide a specific species list if requested.)*

14. *Plant the seed with a rangeland or farm drill, or broadcast the seed. Fall is the preferred time to seed.*

V. VARIANCE REQUEST (Rule R647-3-110)

Any variance request must be approved in writing by the Division

Any planned deviations from Rules R647-3-107, Operation Practices, R647-3-108, Hole Plugging Requirements, or R647-3-109, Reclamation Practices, as summarized above (see IV. Operation and Reclamation Practices Item # 1-14), should be identified below listing applicable rule number. Give justification for the variance(s) and alternate methods or measure to be utilized. Written approval from the Division will be given, if the proposed alternative methods to be used are consistent with the Act.

Are variances being requested? Yes ☐ **No** ☐

1st Variance Requested

_____ _____

Item # Applicable Rule # (i.e. R647-3-109.10 (if you did not want trenches & pits reclaimed)

Justification: _____

Alternate methods or measure to be utilized: _____

_____

2nd Variance Requested

_____ _____

Item # Applicable Rule #

Justification: _____

Alternate methods or measure to be utilized: _____

_____

3rd Variance Requested

_____ _____

Item # Applicable Rule #

Justification: _____

Alternate methods or measure to be utilized: _____

_____

Attach additional page if more variances are requested.

VI. SURETY (Utah Code Ann. §40-8-7(1)[c])

A reclamation contract and surety must be provided to and approved by the Division prior to commencement of operations. No surface disturbance is authorized until the surety is posted and approved in writing. The surety may be provided in the form of a certificate of deposit, a letter of credit, a surety bond, or cash. Please contact the Division for further information about submitting the surety. All mining operations are required to furnish and maintain reclamation surety to guarantee that the land affected is reclaimed (Utah Code Ann. §40-8-7(1)[c]).

The reclamation surety amount is based on the nature, extent and duration of operations. The amounts are based on data from current large mine surety and are used as a general guide, along with actual site conditions. Reclamation surety for small mines is reviewed every three (3) or five (5) years and adjusted as necessary for inflation/deflation based upon acceptable Costs Index. **Contact the Division for the dollar amount required for a three (3) or five (5) year period for this project.**

VII. PERMIT FEE (Utah Code Ann. §40-8-7(1)(i))

A permittee's authorization under a notice of intention to conduct small mining operations shall require the paying of permit fees as authorized by the Utah Legislature (R647-3-102.5). Permit fees are assessed to new and existing small mining operations, and annually thereafter, until the project disturbances are successfully reclaimed by the Permittee / Operator and released by the Division.

Small Mine Notices require a $150.00 fee, which must accompany this application, or the Division cannot process it.

VIII. SIGNATURE REQUIREMENT

CERTIFICATION

I state under penalty of perjury under the laws of the state of Utah and the United States of America that:

a. I have read this form and declare the information, statements and/or documentation are true, correct and complete to the best of my knowledge and belief; AND
b. I commit to the reclamation of the aforementioned small mining project as required by the Utah Mined Land Reclamation Act (40-8) and the rules as specified by the Board of Oil, Gas and Mining.
c. **This certification must be signed by:** (1.) an executive officer if the applicant is a corporation; (2.) a partner if applicant is a partnership (general or limited); (3.) the owner if applicant is a sole proprietorship; **or** (4.) the member or manager if applicant is a limited liability company.

Signature:_____ Date:_____

Name (typed or printed): _____

Title/Position (if applicable):_____

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