S/023/046
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United States Department of the Interior

BUREAU OF LAND MANAGEMENT
HOUSE RANGE/WARM SPRINGS RESOURCE AREA
35 East 500 North
Fillmore, UT 84631

RECEIVED
MAR 17 1997
DIV. OF OIL, G & MINING

IN REPLY REFER TO:
3800
(U-054)
UTU-075843

March 12, 1997

CERTIFIED MAIL #Z 212 229 365
RETURN RECEIPT REQUESTED

DECISION

MIKE MCPHILOMY	:	43 CFR 3809
STONE AGE ROCK AND GENERAL ENGINEERING	:	SURFACE MANAGEMENT
188 WEST - 100 SOUTH	:	NOTICE OF NONCOMPLIANCE
NEPHI UT 84648	:	

Notice of Failure to file a Notice of Intent and subsequent Plan of Operations.

During a September 24, 1995 field inspection conducted by a Bureau of Land Management representative, an unauthorized surface disturbance created by mechanized earth moving equipment was discovered and documented. The disturbance is located in T. 12 S., R. 12 W., Section 4, W2E2, SLM. On the site that day was a Case 4800 skid-loader which belonged to your American Aggregate partner, Marjory Owsley. Also observed that day was a Notice of Location for the Crystal #1 mining claim. This claim was located by Robert and Terry Steele on June 21, 1995, and filed with the Juab County Recorder on June 26, 1995. The Steeles failed to file the location notice with the Utah State Office (USO) of the BLM within the 90-day time limit. They relocated the claim on September 29, 1995 but also failed to file it with the USO.

On November 1, 1995, you were informed that you had established a Record of Noncompliance for failure to reclaim another unauthorized disturbance. The duration of the record was to be three years from the completion of the reclamation. That reclamation has not yet been conducted. As of that date, you were required to file a Plan of Operations for any activities that would normally require a Notice, and to provide a bond for all mining related activities.

On February 1, 1996, in the Juab County Justice of the Peace Court, Robert Steele testified that he had given you permission to mine boulders from the Crystal #1 claim. When he was shown a photo, taken on September 1, 1995, of your semi truck loaded with boulders, he identified them as coming from that claim.

On May 6, 1996, another field inspection was conducted on the site of the unauthorized disturbance. On that date, fresh bulldozer tracks were observed, and 1000 feet of road was side cut into the hill. About two weeks before, a road had been bulldozed at the Tooele County site of a Notice of Intent you filed with the Pony Express Resource Area; and on April 27, 1996, you were witnessed transporting a bulldozer along a route directly between the two sites.

On June 6, 1996, a Case 5800 Super L backhoe (serial number JJG01924528) was observed on the site of the unauthorized disturbance. The dealer sticker had

printed on it the phone number of M&R Equipment in Springville, Utah. An employee there stated that you had leased the machine.

On July 2, 1996, a community pit was established for the N/2NE/4 of Section 4, T. 12 S., R. 12 W., which covered the area of the unauthorized disturbance.

On August 22, 1996 a Case 5800 backhoe was observed at the community pit. The serial number was checked and it was the same as the one documented on June 6. On September 4, 1996, a piece of amber plastic was picked up off the side hill just east of the bulldozer cut. On October 2, 1996, that plastic fit into a broken marker light on the same backhoe, which was parked near the bulldozed road at your Notice of Intent in Tooele County.

During numerous other inspections between September 24, 1995 and now, no other equipment has been observed on the site. Approximately 11.4 acres of disturbance have been created. The reclamation cost has been estimated to be $17,148, however, the minimum bond we can except will be $22,800.

Your operations are in violation of and in noncompliance with the following Federal regulations:

1. 43 CFR 3809.1-3 (a) requires that an operator file a Notice of Intent at least 15 calendar days before commencing operations.

2 43 CFR 3809.3-1(e) requires that all operators who have established a Record of Noncompliance must have an approved Plan of Operations (POO) prior to commencing any subsequent operations on public lands.

3. 43 CFR 3809.1-9(b) requires that a bond be furnished to cover the costs of reclamation of areas disturbed under a Plan of Operations.

4. 3809.2-2 requires that all operations on mining claims be conducted so that unnecessary and undue degradation of the public lands does not occur.

To bring your operations under compliance with Federal regulations, you must:

1. File a Plan of Operations (POO) with this office. Since we do not consider the material to be locatable and there is a community pit on the site, we will not consider further mining there unless it is conducted under a sales contract, the POO should only consist of a reclamation plan which must include the items below:

    1. Removal of trash and pallets and spreading collected rock around the site.

    2. Backfilling the side-cut road, and scarifying all roads.

    3. Handraking the following seed mixture into all the disturbed areas:

Species	lbs./acre
Crested wheatgrass	6
Russian wildrye	6
Streambank wheatgrass	3
Fourwing saltbrush	2
Forage kochia	3
Lewis flax	1
Palmer penstoman	1

2. Furnish a bond to the BLM for $22,800. If you disagree with the acreage of disturbance you may provide an adjusted amount, but since it is anticipated that the new 43 CFR 3809 regulations will be in effect by that time, the acreage and bond amount must be certified, at your own expense, by a professional engineer; and the bond amount must be at least $2,000 per acre. And, as the bond is required in response to the establishment of a Record of Noncompliance, it cannot be jointly held with the State of Utah, which may also require its own bond.

The above actions must be completed within thirty (30) days from your receipt of this notice of noncompliance.

Should you fail to comply with the requirements that have been detailed above, the duration of your record of noncompliance, which has yet to begin, could be extended, and during the duration a POO will be required for activities that presently require only a notice and a minimum $1,000/acre bond; and a mandatory minimum $2,000/acre bond will be required for all mining related activities. The bond must be held solely by the BLM, and double-bonding with the State may be required.

In accordance with 43 CFR 3809.4, you have the right of appeal to the Utah State Director. Direct correspondence to:

Utah State Director
Bureau of Land Management
P.O. Box 45155
Salt Lake City, Utah 84145-0155.

If you exercise this right, your appeal must be accompanied by:

1. The name and address of the appellant,
2. The name and serial numbers of any involved mining claims, and
3. A statement of reasons for the appeal and any arguments you wish to present, which would justify reversal or modification to this decision.

Your appeal must be filed in writing at this office within thirty (30) days after you receive this decision. This decision will remain in effect during the appeal unless a written request for a stay is granted.

Sincerely,

Rex Rowley

Rex Rowley
Area Manager

cc: U-911
U-921
U-050
U-024
D. Wayne Hedberg, UDOGM
Mike Seely, Juab County