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January 15, 2015

Shane T. Peterson
Young, Kester, Black & Jube
75 South 300 West
Provo, Utah 84601

Attorney for Mr. Todd Wilhite / Wall & Rock, Inc.

Re: Potential Resolution of Notice of Agency Action, Wall & Rock, Inc., Gulch and Mount Pleasant North Mines, S/023/0087 and S/039/0030, Juab and San Pete Counties, Utah

Dear Mr. Peterson:

This letter follows up on our conversations from the week of January 5, 2015. As I mentioned, the Utah Division of Oil, Gas and Mining appreciates Mr. Wilhite's cooperation as we work to resolve issues associated with the Freedom from War, Mount Pleasant North, and Gulch mines. The Division recently received transfer documents relating to the Freedom From War mine, and they are working to approve that transfer. Please thank him for his timely action. The remainder of this letter addresses the outstanding issues associated with Mr. Wilhite's other mining sites and proceeds in two sections.

I. Gulch Mine Reclamation Contract and Surety (S/023/0087)

As detailed below, the Division is willing to withdraw portions of its Notice of Agency Action relating to Mr. Wilhite's Gulch mine under the following conditions:

1. The names on the Notice of Intention to Commence Small Mining Operations (Notice), reclamation contract, and the reclamation surety certificate of deposit (CD) for the mine must all be changed to name an entity currently registered to do business in Utah.
2. Tires and other trash (excluding the excavator) currently at the mine site must be removed from the site.

3. Mr. Wilhite is in arrears and must pay yearly fees for 2013, 2014, and 2015, which total $450. The permit fees will continue to come due yearly until the site is reclaimed and the Notice terminated. Yearly updates will also continue to come due and should be submitted even if they state simply that no mining has occurred.
4. Mr. Wilhite must agree not to conduct any mining (or other expansion of the disturbance) at the mine site before he increases the surety amount.

As you know, one of the matters included in the Division's Notice of Agency Action scheduled to go before the Board of Oil, Gas and Mining is resolution of bonding issues associated with the Gulch mine. Since at least 2012, the Division has been trying to finalize the reclamation contract. That contract is still in the name of Wilhite & Associates although the surety CD and the Notice itself are both in the name of Wall & Rock, Inc. Wall & Rock, Inc., is no longer registered to do business in Utah. However, there is another (currently registered) company, Wall & Rock Excavation LLC, which lists Mr. Wilhite as a member and manager.

The Notice, reclamation surety, and reclamation contract all need to be in the name of an entity registered to do business in Utah. You may renew the business registration for Wall & Rock, Inc., and change the name on the CD, or you may change the name on the Notice, reclamation contract, and CD to Wall & Rock Excavation, LLC or another entity.

By letter dated September 19, 2014, the Division required that the reclamation surety for the Gulch mine be increased from $11,700.00 to at least $19,400.00. At Mr. Wilhite's request, the Division recently inspected the site and reexamined the surety amount. The Division determined the current surety amount is adequate if the tires and any other trash currently on the site are removed. Before continuing with any mining operations or expanding the disturbance, however, the surety amount must be increased as stated in the September 19, 2014, letter. Please note that the Division's reevaluation resulted in a $7700 reduction in Mr. Wilhite's reclamation liability. Also note that the required bond amount will be reevaluated in 2017 as required by rule.

After Mr. Wilhite completes item nos. 1–3, he should write to the Division to confirm that the items are resolved. The letter should (a) contain appropriate documentation related items nos. 1–3 and (b) affirm item no. 4, namely that he will not conduct mining operations on the site without first informing the Division and posting an increased surety. Once the Division receives this letter and documentation, it will ask the Attorney General to withdraw the related portion of the Notice of Agency Action.

II. Mount Pleasant North Seeding (S/039/0030)

The Mount Pleasant North mine site needs to be scarified and seeded at the earliest opportunity. In this case, it should be done as soon as the site is snow-free and the soil is dry enough to allow equipment to operate. The Division anticipates that this should be completed by March 31, 2015, if weather permits. The Division is willing to provide a harrow that can be pulled by an all-terrain vehicle for Mr. Wilhite's use on this project if that would assist him. Of course, he can use his own equipment if that is easier or more reliable.

Completion of this reclamation work needs to be a high priority and should not be postponed. As above, Mr. Wilhite should inform the Division once he completes the required seeding. At that point, the Division will inspect the site and ask the Attorney General to withdraw the related portion of the Notice. Until then, the Division will continue to pursue the Notice of Agency Action.

Thank you, and please call with any questions.

Sincerely,
UTAH ATTORNEY GENERAL'S OFFICE

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Assistant Attorneys General

Attorneys for the
Utah Division of Oil, Gas and Mining

JR:rf

cc: Paul Baker