s/023/0109
cc: Wayne

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Fillmore Field Office
95 East 500 North
Fillmore, UT 84631
http://www.blm.gov/ut/st/en/fo/fillmore.html

RECEIVED
JUL 01 2013
DIV. OF OIL, GAS & MINING

IN REPLY REFER TO:
3809 (UTW02000)
UTU-88441

June 27, 2013

CERTIFIED MAIL # 7011 3500 0000 1992 4817
RETURN RECEIPT REQUESTED

DECISION

MR. DALE ROGERS	:	
P.O. BOX 668	:	43 CFR 3809 - Surface Management Plan
MILFORD, UTAH 84751	:	

NONCOMPLIANCE AND SUSPENSION ORDER

Routine field examinations conducted on August 9, 2012 in Millard County, Section 31, Township 13 South, Range 19 West; revealed the following mineral extraction activity under Pending Plan of Operations, UTU-88441, on the Utah mining claim UMC 408912:

On August 9, 2012, your proposed Plan of Operations site was found by an inspector of the Bureau of Land Management (BLM) to contain large excavations and surface disturbances at the mouth of Skinner Canyon, near Pleasant Valley Draw, Millard County, Utah. Upon return to the BLM Fillmore Field Office, the inspector discovered that the Financial Guarantee, or bond, for reclamation had not been submitted to, or acknowledged by, the Division of Lands and Minerals at the Utah State Office of the BLM on the date of the inspection.

A review of our records indicates the following facts:

On May 23, 2011, you were sent a letter by Certified Mail in which the BLM indicated that additional information was necessary before we could determine if the material on your claim is an uncommon variety locatable mineral, to be processed under Code of Federal Regulations (CFR) §3809, or common variety mineral, to be processed under Code of Federal Regulations (CFR) §3600. That letter specified that limestone (calcite) can either be locatable, as an uncommon variety, or salable, as a common variety, and a determination of the status of this limestone (calcite) would therefore be necessary.

Based on our inspections and files, your activity is unauthorized. It is in violation of the United States Code of Federal Regulations (CFR) §3809 – Surface Management. Specifically, you are in violation of the following regulations:

§3809.605 (b) Beginning any operations, other than casual use, before you file a notice as required by §3809.21 or receive an approved plan of operations as required by §3809.412.

§3809.605 (d) Beginning operations prior to providing a financial guarantee that meets the requirements of this subpart.

Under authority of 43 CFR 3809.601(a), you are hereby issued this Order of Noncompliance. Under authority of 43 CFR 3809.601(2)(ii), you are ordered to cease all operations at this site except for reclamation. Under authority of this subpart, BLM may presume that an immediate suspension is necessary if you conduct plan-level operations without an approved plan of operations or conduct notice-level operations without submitting a complete notice.

If you do not comply with this order, the BLM may take further action against you pursuant to §3809.601(b) and/or the Department of the Interior may request the United States Attorney to institute a civil action in United States District Court for an injunction or order to enforce this order to prevent you from conducting operations on the public lands in violation of this subpart, and collect damages resulting from unlawful acts (see 3809.604). Additionally, if you fail to adhere to the terms of this order, you may face arrest and trial under section 303(a) of the Federal Land Policy Management Act (43 U.S.C. 1733(a)). If convicted, you will be subject to a fine of not more than $100,000 or the alternate fine provided for in the applicable provisions of 18 U.S.C. 3571, or imprisonment not to exceed 12 months, or both, for each offense (see §3809.700).

Appeal of the Decision – If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the BLM Utah State Director review this decision. If you request a State Director review, the request must be received in the BLM Utah 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 concerning your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Utah State Office to determine when BLM receives the request for 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 in the Fillmore Field Office (FFO) at 95 East 500 North, Fillmore, Utah 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 for a Stay of the effectiveness of this 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, to the IBLA, 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:
The relative harm to the parties if the stay is granted or denied,
The likelihood of the appellant's success on the merits,
The likelihood of immediate and irreparable harm if the Stay is not granted, and
Whether the public interest favors granting the Stay.

If you have any questions, please contact Duane Bays, FFO Natural Resource Specialist, at (435) 743-3115, or Jerry Mansfield, FFO Geologist, at (435) 743-3125.

Sincerely,

Michael D. Gates
Field Manager

Enclosures:
Form 1842-1
Photo

cc:
Paul Baker
UDOGM
1594 W North Temple Ste 1210
Salt Lake City, UT 84114

Opie Abeyta (UT-923)
Utah State Office/ BLM
PO Box 45155
Salt Lake City, UT 84145-0155