S/027/079

**UNITED STATES DEPARTMENT OF INTERIOR**
**OFFICE OF HEARINGS AND APPEALS**
**801 NORTH QUINCY STREET SUITE 300**
**ARLINGTON, VA. 22203**

| | |
|---|---|
| JEROME GATTO,<br>CAMBRILLC NATURAL<br>STONE L.L.C.<br><br>**Appellant** | IBLA 2004-158 |
| VS. | APPEAL FROM A DECISION<br>BY B LM UTAH STATE<br>DIRECTOR<br>GRANTING A STAY TO UNIQUE<br>MINERALS INC., ON<br>FEBRUARY 27, 2004<br>43CFR 3809.800 |
| MS. SALLY WISELY,<br>BLM UTAH STATE<br>DIRECTOR<br><br>**Respondent** | |

RECEIVED
APR 2 6 2004
Bureau of
Land Management

RECEIVED
APR 2 7 2004
DIV. OF OIL, GAS & MINING

*"The FBI['s] . . . right hand didn't know what the left hand was doing."*

JANET RENO

IBLA 2004-158

The above quote by the former Attorney General Janet Reno, is directly applicable to this appeal. **The comparison is obvious:**

**The Left Hand is:**
**The BLM Office of the Utah State Director**
On February 27, 2004 This Office issued a stay to Unique Minerals Inc.

**The Right Hand is;**
**The BLM Fillmore Field Office in Fillmore Utah**

On Januay 15, 2004, Just "43 days before" the State Director granted a stay, the Fillmore Field Office issued a Noncompliance Order against Unique Minerals Inc. on claims other than those stipulated in the request for the stay.

2004 IBLA-158

Jerome Gatto of Cambrillic Natural Stone L.L.C., hereby appeals the decision, by Ms. Sally Wisely, Director Bureau of Land Management, for and in the State of Utah, of February 27, 2004.

Appellant files this appeal , not as a consolidated appellant, as in previous appeals, before this Board, but as a single appellant of Cambrillic Natural Stone L.L. C.

**Exhibits A through G Document Appeal Chronology Required by 43 CFR (sec 4.411 and 4.413)**

Exhibit A

A copy of the Decision by State Director Wisely , dated February 27, 2004 granting Unique Minerals Inc, a stay ,pursuant to 43 CFR 3809.800 to stop Cambrillic Natural Stone L.L.C., to mine the slate of the Spectrum Quarry,

Exhibit B

Approved Plan of Operations of Appellant by the BLM Fillmore Field Office with enclosed mitigations on September 9, 2003.

Exhibit C

On March 5, 2004, via certified mail, Appellant filed a Notice of Appeal with the Interior Board of Land Appeals, with certified copies to all involved parties.

Exhibit D

On March 19, 2004, this Board accepted this appeal under Docket Number 2004-158.

Exhibit E

On March 23, 2004, Appellant sent certified mail to this Board, Copies of certified mail receipts, illustrating that all adverse parties had received said Notice of Appeal.

Exhibit F

On April 1, 2004, Appellant requested an extension of time to file the Statement of Reasons for this appeal.

Exhibit G

On April 8, 2004, this Board granted appellant an extension of time until Mary 4, 2004, to file the Statement of Reasons.

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IBLA 2004-158

STATEMENT OF REASONS

Appellant, now presents detailed statement of reasons why the Decision by the Utah State Director, granting a stay to Unique Minerals on February 27, 2004 is unlawful, prejudicial, and contrary to the polices and procedures of 43 CFR 3800, the Department of Interior, Bureau of Land Management, and especially in contradiction to the Federal Rules of Civil Procedure.

The party in question that requested a stay , Unique Minerals Inc. It is a company plagued by lack of financial resources and experience in the stone business. It has many investors of a polygamist persuasion that possibly have plans for the area other than the mining of slate and aggregate, similar to the project in El Dorado, Texas.

The following information is introduced as evidence in support of Appellant's appeal that Unique Minerals Inc., **should never have been** granted a stay when a noncompliance order against them was in place.

Exhibit H

On January 5, 1999, this Appellant received a letter from Mr. Ron Tesenner, from the BLM Fillmore Office apprising this Appellant of an overlap, concerning a claim.

SALT LAKE TRIBUNE
APRIL 25, 2004

## OUR VIEW

# Polygamy problems

*"It does me no injury for my neighbor to say there are twenty gods, or no God. It neither picks my pocket nor breaks my leg."*

— THOMAS JEFFERSON
*Notes on the State of Virginia, 1782*

The pioneers who settled the Salt Lake Valley finally forsook a cherished religious practice in order to gain statehood. But plural marriage, forever banned in the Utah Constitution, has maintained a stubborn presence ever since — as a religious practice, as a strange cultural anachronism and, in too many cases, as a breeding ground for abuse and fraud.

Even as The Church of Jesus Christ of Latter-day Saints has distanced itself from the polygamy of its founding prophets, splinter groups from the Mormon mainstream have flourished in the shadows for a century, embracing plural marriage as a God-given commandment. With some headline-grabbing exceptions, polygamists in Utah and elsewhere in the West have been largely left alone by their neighbors and by government officials, a number of whom are themselves descendants of plural unions sanctioned by the early LDS Church.

This blind-eye benevolence toward religious belief and practice has strong roots in America, as Jefferson's words attest. But polygamy, labeled with slavery as one of the twin "relics of barbarism" in the 19th century, cannot simply be dismissed in the 21st as an institution that neither causes harm nor robs anyone.

Though bigamy is prohibited by law, it can be argued that it really makes no compelling difference if a man has one wife or 20, as long as he breaks no legs (abuses no children, takes no child brides, holds no women against their will, forces no male rivals out of town, engages in no incest, violates no laws on mandatory school attendance) or picks no pockets (by defrauding the welfare system by taking more wives and fathering more children than he can possibly support).

Sadly, it appears from *The Salt Lake Tribune's* March 14 special report, and in earlier and subsequent reportage on polygamy, that there is some truth in allegations that some, though not all, polygamous clans in Utah encourage violations of state law as part of their religious beliefs and practices.

"We have seen compelling evidence that crimes are being committed, children are being hurt and taxpayers are footing the bill for those who are causing pain," Utah Attorney General Mark Shurtleff told the *Arizona Republic*. "We respect sincere religious belief, but we cannot tolerate crimes committed under the guise of religion."

Shurtleff, who is running for re-election, commendably coordinated watchdog efforts with Arizona authorities, raised public awareness of alleged abuses and reached out to possible victims within polygamist communities. It remains to be seen, however, whether the polygamy-related investigations that Shurtleff says are under way will result in charges and, if they do, have any deterrent effect.

It is at least possible that laws against bigamy and polygamy ultimately could be swept away in the tide of litigation growing out of the same-sex marriage debate, but that would not diminish the need for state and local authorities to aggressively prosecute those in polygamist communities who try to justify abuse and fraud in the name of religion.

Exhibit I

. On May 10, 1999, this Appellant sent a certified letter to the Registered Agent of Unique Minerals Inc. demanding this overlap be removed, and to stop attempting to covet the claims , namely, the Sapphire Claims, sold to this Appellant before the owner Mr. Clyde Cheney, died. Appellant has directly invested in the Sapphire Claims since 1978.

Exhibit J

On May 13, 1999, the secretary of Unique Minerals Inc., Mr. Richard Stone sent this Appellant a facsimile ,stating in part,

**"As to your claims we have overlapped. We don't know exactly what your boundaries are. If you send us the coordinates to your claims, we can have our claims amended."**

**They never amended these claims as Mr. Stone stated in the above letter, but persisted in their attempted theft of the claims.**

Exhibit K

On June 19, 2000, Mr. Stone of Unique Minerals Inc., wrote a letter to M.W. Hamilton, and his associates, who, were attempting to take the same claims Unique Minerals Inc., has falsely represented as belonging to their corporation.

This eventually turned into a lawsuit, which continues to this day. Civil No 000908154 Third District Court, Salt Lake City, Utah.

It is indeed **10 pages** of interconnecting principals changing seats as to companies, and positions, namely Richard Stone, Ted Abeyta, and all his family members labeled as claimants, Gene Richards, David Weston, the Attorney Findley, if he is the attorney or silent partner in this maelstrom, of suits counter suits, etc.

This Exhibit details the so-called principals and their infighting. Abbott and Costello did a better job of who is on first.

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**The correspondence by and between Unique Minerals, and the Fillmore Field Office leading to the issuance of the noncompliance order, against Unique Minerals Inc.**

Exhibit L

February 20, 2003, Requirement to Concur with or to submit Information to review Reclamation Estimated. From R. Rowley to Richard Stone of Unique Minerals Inc.

Exhibit M

May 15, 2003 Reclamation Cost Estimate Required.
From R. Rowley, to Larry McCurdy Unique Minerals Inc.

Exhibit N

October 1, 2003, Letter from Larry McCurdy of
Unique Minerals Inc. requesting a stay to stop Appellant from operating a permit issued by the BLM Fillmore Office on September 9, 2003.

Exhibit O

October 6, 2003, Letter from R. Rowley, to Larry McCurdy of Unique Minerals Inc. stating if the bond in not in place by October 27, 2003, the notice will expire.

Exhibit P

December 3, 2003, "Determination of Operator's
Liability and 43 CFR 3809.333 Expiration of Notice to Commence Reclamation. From Rex Rowley to Larry McCurdy of Unique Minerals Inc.

Exhibit Q

**January 15, 2004, 41 CFR 3809.601 Noncompliance Order issued by Glenn Ambusher (spelling) of the BLM Fillmore Office, to Dick Stone of Unique Minerals Inc.**

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## THE ANALYSIS OF THE ILLEGAL DECISION

(1)

Appellant hereby introduces, and quotes in part 43 CFR 3809.601

"(a) Noncompliance Order. If your operations do not comply with any provision of your notice, plan of operations, or requirement of this sub part, BLM issue you a noncompliance order and (b) Suspension orders(1)BLM may order a suspension of **all or any part of your operations"**

(2)

Exhibit R

This Exhibit is comprised of three pages, (3) in which Unique Minerals titled " Description of business and potential". This Exhibits states that Unique Minerals Inc, is the only claimant of some 3, 840 acres.

Appellant who has paid so many consistent annual expenses for the Sapphire Claims beginning with the Geology Report by Dr. James Whelan in 1978, is not mentioned in this promotional data of Unique Minerals Inc.

(3)

In part the Decision states,

**" and the previous IBLA Order dated August 29, 2000 stayed a mineral material sale from this site, your request for a stay is granted."**

(4)

Ms. Wisely is completely aware that this was an illegal sale to a firm without any interest in the claims. Mr. Rowley of the Fillmore Office and his employees, are co-defendants with Levin Stone Inc., in this illegal secret sale.

(5)

Appellant had to find out himself about the sale. The Appellant then filed an appeal protesting this sale. This Appeal was filed with this Board June 4, 2000. Ms. Wisely was served with a copy of this appeal and yet she uses this to bolster her decision for a stay which is indeed incomprehensible.

**EXHIBIT S**

**A one page information sheet detailing the contents of the motion, duly served on all parties.**

**That appeal by Appellant then caused the August 29, 2000 order from this Court to stay any future sales, because of the theft by Levin Stone Inc., and his secret partners, the employees of the BLM Fillmore Field Office.**

**For Ms. Wisely to use this as a support for her issuance of the stay is insulting, and without merit.**

, Appellant , again quotes in part, from the decision of Ms. Wisely,

" On July 30, 2003, Cambrillic Natural Stone submitted a plan of operations."

Ms. Wisely is again incorrect. The following information is correct.

Exhibit T

This Exhibit is comprised of three documents:

A. Appellant filed : " a letter titled, Notice to begin Operations on April 14, 2003," NOT July 30, 2003 as stated by Ms. Wisely.

B. Appellant additionally filed : " Filing of Two (2) Mining Plans for Cambillic Natural Stone L.L.C. on April 29, 2003."NOT on July 30, 2003, as stated by Ms. Wisely.

C. Notice to Commence Small Mining Operations, was filed and dated April 14, 2003, NOT July 30, 2003, as stated by Ms. Wisely.

## THE WISELY FIASCO

**43 Days after** the Noncompliance Order was issued against Unique Minerals Inc., By the BLM Fillmore Office, Ms. Wisely, Utah State Director, from the Salt Lake City Office grants Unique Minerals Inc., a stay to a company that is now tainted with a Noncompliance Order, making it impossible for Unique Minerals Inc., to request anything concerning pubic lands. CFR 43, 3809.

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Since April ,1999, when the Plan of Operation was first submitted by Appellant, Appellant has been plagued by the State Office and Fillmore Field Office of the Bureau of Land Management.

This Plan of Operation was rejected because Mr. William J. Pappas, purportedly had a record of non compliance, with the This absurd accusation took two years to remove, yes another two years of robbery by the Fillmore Field Office to prevent Appellant from mining the legal claims of Appellant.

These offices have for over 5 years, hindered Appellant by false and unlawful delays that have cost Appellant many hundreds and thousands of dollars in income, and the costs of motioning and filing legal documents in order to protect the claims of the Appellant.

In her decision for granting a stay, Ms. Wisely mentions many conversations with the Board. Appellant contends these are serious exporter violations.

Again quoting the Decision in part, " The Regional Solicitor contracted the Interior Board of Land Appeals in early December 2003 to find out the status of the three appeals involving the Spectrum Quarry."

Appellant is in fact, the pro se attorney in these matters, and for the last 4 years been accepted as such by this Board, as a Consolidated Appellant. Therefore, Appellant requests an investigation as to:

. Who the Solicitor in Salt Lake City, talked to at the IBLA, the crux of those conversations, and any transcripts concerning these cases before this Board that said Appellant has not been privy. It is the responsibility of the Solicitor to **share this kind information with pro se litigant**

The Utah Bar Association , Office of Professional Conduct 645 South 200 East Suite 204 Salt Lake City, Utah 84111, will be interested in this conduct.

As a pro se litigant, Appellant has subpoena power, and will use that power to gain access to these ex parte conversations, if not afforded this information voluntarily.

Exhibit U.

This Exhibit is comprised of 17 pages which are individual details of each of the 17 motions before this Board submitted by Appellant.

As yet none of these Motions have been addressed by this Board. Appellant feels that these motions must be ruled on by this Board individually, in order for Appellant to pursue these matters in the United States District Court, District of Utah, if necessary..

Exhibit V.

This newspaper article was issued on October, 2003, the same time the BLM State Director Office and the Fillmore Field Office, were issuing unconscious conflicting rulings.

The title of this Exhibit is indeed appropriate: **" BLM chief wants more accountability from her Managers."**

**I am sure the State Director and the Fillmore Office cannot follow this request of Ms. Clarke.**

Exhibit W.

This Exhibit comprises two letters: Letter

01 is from Mr. Rowley addressed to Mr. Pappas , dated July 8, 2003of Cambrillic Natural Stone L.L.C. answering my letter to him of July 3, 2003. In this letter Mr. Rowley presents a feeble attempt to extricate himself from his flagrant violation of not compiling with the production schedule established by this Court on August 29, 2000.

02 is the letter, dated July 26, 2003 of this Appellant responding to Mr. Rowley's letter of July 8, 2003.

The purpose of this exhibit is to again alert this board as to how the Fillmore BLM Field Office attempts to argue illegal propositions, with the cunning of Jack the Ripper. .

Exhibit X
This is a letter addressed to Appellant from the Fillmore BLM Field Office. The date of this letter is December 17, 1998.

> It Informs this Appellant that the validity.
> Examination is continuing.
>
> This is April 2004. **SIX YEARS...LUDICROUS**
>
> How long will this Board allow the Office of the Utah State Director and the Fillmore Field Office to continue this perpetual fraudulent activity concerning validity exams.

Appellant also encloses in this Exhibit the first pages of the Geology Report paid for by Appellant date July 3,1978, to illustrate once again the longevity of Appellant concerning the Sapphire Claims.

Exhibit Y

This Exhibit comprises 2 letters, one dated March 16, 2003, which Appellant assumes should have been dated 2004.

This letter is exhibited for the purpose of showing this Board a futile attempt by the Fillmore Office to now , in 2004, attempt to comply with the production schedule of this Court dated August 29, 2000.

Included in this Exhibit is a letter from Appellant to this Court dated February 19, 2002, requesting a status report.

Appellant never received an answer..

Exhibit Z

This last Exhibit of this Appeal 2004-158 is a newspaper article dated Friday October 11, 2002, titled:

**BLM'S APPRAISAL PROCESS BLISTERED**

This quote in part, proves again the allegations of the Appellant against the The Office of the Utah State Director and the Fillmore Field Office.

**"GIVEN THE BLM'S TRACK RECORD, YOU CAN'T GET TOO EXCITED THAT THIS IS GOING TO MAKE A DIFFERENCE, BUT SOONER OR LATER YOU GET ENOUGH DATA OUT THERE, SOMEBODY IS GOING TO FORCE THEM TO CHANGE."**

Based on the facts and exhibits documenting the preponderance of the evidence submitted Appellant hereby motions this Board to vacate the stay issued by Ms. Sally Wisely on February 27, 2004, and allow Appellant to begin mining operations immediately.

Respectfully Submitted , this 28th day of April , 2004.

Jerome C. Gatto

Jerome Gatto, Appellant
For Cambrillic Natural Stone L.L.C.

Cc: Complete Copies to all involved parties.

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

TAKE PRIDE IN AMERICA

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
http://www.blm.gov

EXHIBIT A
3DA903

IN REPLY REFER TO:
3809
(UT-923)
UTU-075884, UTU-078275, UTU-078273

CERTIFIED MAIL #7002 0460 0002 9609 9233
RETURN RECEIPT REQUESTED

February 27, 2004

DECISION

| | | |
|---|---|---|
| Unique Minerals Inc.<br>18458 Carter Circle<br>Cedar Valley, UT 84013 | :<br>:<br>: | Request for Stay Granted<br>43 CFR 3809.800 |

On October 6, 2003 you filed an appeal of the Fillmore Field Office's decision to allow Cambrillic Natural Stone to mine slate from the Spectrum Quarry. In addition, you requested a stay. The Spectrum Quarry is located in section 23, T.17 S., R. 13 W. There are currently three appeals before the Interior Board of Land Appeals (IBLA) regarding this quarry. These appeals are IBLA 2000-249, 2000-251 and 2001-168. BLM moved to consolidate Unique's (IBLA 2000-251) and Cambrillic Natural Stone's appeals (IBLA 2000-249). Unique Minerals Inc. and Cambrillic Natural Stone are rival mining claimants. This motion was granted over both appellants' objections.

On July 30, 2003, Cambrillic Natural Stone submitted a plan of operations. On September 9, 2003, the Fillmore Field Office approved the plan of operations with enclosed mitigating measures. On October 6, 2003, you timely submitted a request for State Director Review of the Fillmore Field Office decision.

The Regional Solicitor contacted the Interior Board of Land Appeals (IBLA) in early December of 2003 to find out the status of the three appeals involving the Spectrum Quarry. The Board thought that a decision would be issued before Christmas. Obviously this did not happen. Another inquiry made on February 24, 2004, indicated that a draft decision is currently being circulated among the Administrative Judges. Since a decision should be forthcoming from IBLA, and the previous IBLA Order dated August 29, 2000 stayed a mineral material sale from this site, your request for a stay is granted. This stay is appropriate since it is necessary for the proper functioning of the review process.

If you do not agree with my decision you may appeal 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 this office (Utah State Office, P.O. Box 45155, Salt Lake City, UT 84145) 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 regulations 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 and to the Interior Board of Land Appeals 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:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Sincerely,

/s/ Sally Wisely

Enclosure:
Form 1842-1

cc: Wayne Hedberg, Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, Salt Lake City, UT 84114 (S/027/079)
Cambrillic Natural Stone, Jerry Gatto, 230 E. Broadway, Suite1205, Salt Lake City, UT 84111
Cambrillic Natural Stone, William Pappas, 1730 S. 1100 E., Salt Lake City, UT 84105
Cambrillic Natural Stone, Gene Richards, 1256 Parkcrest Circle, Salt Lake City, UT 84124
Levin Stone Inc., PO Box 95, Ash Fork, AZ 86320

Bureau of Land Management
324 South State, 4th Floor
P.O. Box 45155
Salt Lake City, Ut 94;45-0155

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FEB 2 '04
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Cambrillia natural stone
Gery Gatto
230 E. Broadway, Suite 1205
Salt Lake City, UT 84111

84111/2455

EXHIBIT
B
14 PAGES

# United States Department of the Interior

**BUREAU OF LAND MANAGEMENT**
**FILLMORE FIELD OFFICE**
**35 East 500 North**
**Fillmore, UT 84631**

In Reply Refer to:
3800
(U-010)
UTU-078275

September 9, 2003

CERTIFIED MAIL #7002 3150 0004 1702 0136
RETURN RECEIPT REQUESTED

WILLIAM PAPPAS
MEMBER MANAGER
CAMBRILLIC NATURAL STONE
230 E BROADWAY SUITE 1205
SLC UT 84111

Dear Mr. Pappas:

Your Plan of Operations to mine building stone at the Spectrum Quarry has been approved subject to the enclosed mitigations. However, before you can begin operations, you must comply with the 43 CFR 3809 regulations and submit to the Utah State Office of the BLM both a financial guarantee for reclamation, and an initial deposit of $3960.00 for the escrow account. If you plan to use water from the Antelope Springs standpipe, you must also purchase it prior to use.

We are enclosing a worksheet for you to calculate the reclamation cost estimate. Please fill it out and return it as soon as possible, so that we may review it according to the enclosed guidelines. We have highlighted the pertinent rows you will need to consider. Please keep in mind that the reclamation must meet the requirements of both the 3809 regulations and the previously mentioned mitigation measures, and the reclamation cost estimate must be calculated accordingly.

You may want to consult with the Utah Division of Oil, Gas and Mining (UDOGM), since that agency is implementing bonding requirements for small mine operations, and their reclamation cost estimate procedure may be less arduous than that of the BLM. UDOGM is considering a bond calculation of $5000.00 for the first acre, and $3000.00 for any additional acres, up to five acres. Since your operation will disturb up to five acres, that would result in a bond calculation of $17,000, which could be submitted to UDOGM as a joint bond with the BLM.

The terms of the escrow account will be as follows:

> The appraised value of the building stone is $12.00 per ton. You have proposed mining 20,000 tons of material a year (6600 tons of building stone and 13,400 tons of crushed shale that you will stockpile and may

purchase later). Since we anticipate that the mineral report on the material will be complete within a year, we will calculate the total amount of the account at $79,200. The rate of deposit into the account is handled like a mineral material sale. That is, 5% is the initial deposit and is credited towards the last 5% of material mined, with monthly payments made for the value of the material removed the previous month. Thus, the fore mentioned $3960.00 must be deposited prior to mining.

Approval of this mine plan will not now, nor in the future, serve as a determination of the validity nor ownership of any mining claim included under the plan. If, after a validity exam and contest claim, your claims are declared null and void, or if the pending IBLA case determines that the BLM has the superior right to sell the material, you will not be given preference over other interested parties to mine the stone under a sales contract. If you are not successful in gaining a sales contract, you must immediately cease occupying the site and reclaim all areas for which reclamation liability has not been assumed by subsequent permittees.

If you have any questions, please feel free to contact Sheri Wysong at (435) 743-3124.

Sincerely,

Rex Rowley

Rex Rowley
Field Office Manager

Enclosure
Mitigation Measures
Reclamation Cost Estimate Worksheet
Guidelines for Reviewing Financial Guarantee Costs

cc: Tom Munson, UDOGM (S/027/079, with copy of Plan of Operations)

**Mitigation Measures:**

1. Access to the site shall be restricted to existing roads. Roads will not be improved without first gaining approval form the authorized officer.

2. Operations shall be suspended when, in the judgement of the Authorized Officer, they have the possibility of unduly harming the surface during periods of wet weather.

3. The permittee/operator shall promptly remove and dispose of all waste caused by the operations as directed by the Authorized Officer. "Waste" refers to all discarded matter, including human waste, trash, garbage, refuse, petroleum products, coolants, ashes and equipment. Wastes shall be disposed in an appropriate disposal facility.

4. The permittee/operator shall contract with a portable toilet provider to place and maintain a portable toilet at the site until a septic system has been approved by the county health department, and a more permanent facility hooked into it.

5. Disclosure of all hazardous materials associated with operations and their use, storage, transport, quantity, generation and disposal must be made. Information regarding hazardous materials can be obtained from the State of Utah, Department of Environmental Quality, Division of Solid and Hazardous at:

228 North 1460 West
Salt Lake City, Utah 84114-4880

The permittee/operator is required to contact the Department of Environmental Quality (DEQ), Emergency Response Section (ERS) at the Sections 24-hour response number (801-536-4123) immediately of a spill or discharge of hazardous substances.

6. The permittee/operator shall effect a minimum of vegetative and soil disturbances consistent with practical constructive operations.

7. If any noxious weeds invade the site, the permittee/operator will consult with the BLM weed specialist and follow recommended measures to control them.

8. Authorized grazing users shall have access to the area for grazing purposes. The permittee/operator will work with the grazing permittee to effect a minimal of disturbance to the livestock.

9. No holes, pits, equipment or facilities which would endanger human life, livestock or wildlife shall be maintained on the ground during extraction or upon termination of the contract.

10. The permittee/operator will not discourage the public from fossil hunting in the quarry or waste rock unless it constitutes "material interference" or a danger.

11. If a raptor nest is found within ¼ mile of the area of operations, the permittee/operator shall immediately notify the Authorized Officer of the Bureau of Land Management. Upon evaluation and consultation

with the Fish and Wildlife Service, the permittee/operator may be required to suspend operations during the period from March 1 to June 30 to prevent possible nest abandonment.

12. The permittee/operator shall not injure, alter, destroy, or collect any site, structure, object, or other value of historical, archeological, or other cultural importance. The permittee/operator shall immediately bring to the attention of the BLM any and all antiquities or other values of cultural or scientific interest including, but not limited to, historic and prehistoric ruins and artifacts discovered as a result of operations under this contract/Plan approval, and shall leave such discoveries intact until told to proceed by the BLM. The BLM shall evaluate the discoveries brought to its attention and shall determine, in five working days, what action shall be undertaken prior to proceeding with any operations that might be destructive of the discovery.

13. The permittee/operator may purchase, from the BLM, a nominal amount of water from the Antelope Springs standpipe. "Nominal" being defined as the amount determined by the authorized officer that would not interfere with the traditional use of the water.

14. The Permittee/Operator shall not block any drainages or washes.

15. Topsoil shall be scraped from the surface and stockpiled for use during reclamation.

16. Reclamation shall consist of recontouring the quarries and dumps to a slope consistent with the surrounding topography, but no more than a 2 (horizontal) to 1 (vertical), spreading the stockpiled topsoil over the disturbed areas, and seeding with a mixture satisfactory with the BLM, and the Utah Division of Oil, Gas, and Mining. Any areas compacted by traffic or other use will be ripped and seed applied. Seed will be applied in the fall to increase the likelihood of success of revegetation.

# Guidelines for Reviewing Financial Guarantee Costs

## BLM's Review and Evaluation Role

BLM's task is to review and evaluate the operator's financial guarantee cost estimate to determine if he/she has correctly identified and incorporated all of the applicable reclamation and administrative costs (identified below). The reclamation costs included in financial guarantee calculations for new Notices and Plans of Operations will be reviewed and evaluated based on the reclamation standards according to 43 CFR 3809.420. Operator estimates of reclamation costs for extended Notices shall be reviewed based on the 43 CFR 3809.1-3(d) reclamation measures that were in effect immediately prior to January 20, 2001 (43 CFR parts 1000-end, revised as of October 1, 2000). In reviewing reclamation costs estimates for extended Notices, BLM must ensure that the operator documents what reclamation measures will be performed to meet the reclamation measures in 43 CFR 3809.1-3(d). The responsible BLM field office must agree that these measures will prevent unnecessary and undue degradation and documentation of these reclamation measures must be contained in the case file.

In performing this review, if the operator has not included BLM's administrative costs, the responsible BLM office will notify the operator (in writing) of those costs along with any deficiencies or additional information needed in order for BLM to complete the review. The BLM office may assist the operator in identifying costs to be included in the estimate. An operator is not required to hire a professional engineer or geologist to prepare a cost estimate but in some cases it may be desirable for them to do so. BLM may recommend this option to the operator, but may not recommend any specific individual or firm. It is not BLM's responsibility to calculate the reclamation cost for an operator, but rather to determine if the reclamation cost estimate provided by the operator is acceptable.

## Notice and Plan of Operations Costing Estimates

In reviewing reclamation cost estimates the field office review must ensure the operator has provided the following when applicable:

> Costs must be estimated as if BLM were hiring a contractor to perform all required reclamation (43 CFR 3809.552(a)).
>
> Costs must include the use of off-site equipment as if the project area was vacated, and they must include all associated mobilization and demobilization costs [43 CFR 3809.554(a)].
>
> The operator's estimate must cover all reclamation requirements in Notices and approved Plan of Operations [43 CFR 3809.301(b), .401(d), .552(a) and 43 CFR 3809.1-3(d) for extended Notices].
>
> The estimate must include when applicable, all interim maintenance to maintain compliance with applicable environmental requirements while contracts are developed and executed [43 CFR 3809.552(a)].

The estimate must cover costs to construct any identified long-term treatment facilities required by the filed Notice or approved Plan of Operations [43 CFR 3809.552(a)]. (Generally applied to cyanide operations and operations that result in acid mine drainage).

Labor costs for construction (earth moving) must be based on federally mandated labor rates (Davis-Bacon wages for contracts over $2,000) as required by law and Subpart 22.4 of the Federal Acquisition Regulations (FAR). If a contract is solely for the dismantling, demolition, or removal of improvements, the Service Contract Act applies unless further work which will result in the construction, alteration or repair of the improvements at that location are contemplated. If such further work is intended, even through a separate contract, then the Davis-Bacon (D-B) wages apply. (www.access.gpo.gov\davisbacon)

If Davis-Bacon wages or a contractor's estimate is used to determine a cost, there is the possibility of double accounting when it comes to applying a "Profit" line item. Depending on how the D-B wages are listed, they may include base pay, payroll loading (Social Security Workers Compensation, and Unemployment Insurance), overhead, and profit. For example, last year a typical dozer operator in Idaho was paid $37.59 to $40.25 per hour. This wage included 14.6 percent payroll loading, 10 percent overhead, and 6 percent profit.

Contractors typically apply all costs, including profit to a bid estimate. An itemized estimate should be requested if a lump sum estimate is submitted.

It is recommended that the responsible BLM specialist coordinate with their state procurement analyst concerning current labor wages, contracting requirements, and advice on various types of contracts, contract language, and administration.

## Cost Identification

The costs identified below must be included in the financial guarantee estimate. This will require the reviewer to pay attention to costing standards that are in part based on the Federal Acquisition Regulations (FAR). This instruction contains suggested percentages for meeting these requirements that are to be treated as rules of thumb and not as precise costs specified by the regulations. Costs other than those listed below may be included in a calculation if they are explicitly addressed in a Federal-State agreement regarding the financial guarantee and are required by state law.

1) Operating and Maintenance (O&M) Costs - The operator's estimate must identify the relevant O&M costs relating to reclamation including:
    a) Equipment rental or acquisition costs
    b) Equipment operation costs

c) Equipment maintenance costs.
d) Cost of operating supplies.
e) Labor costs for operations, maintenance and supervision.
f) Reclamation materials acquisition costs.

2) BLM Administrative Costs - BLM must ensure that the accepted financial guarantee estimate includes the required administrative costs:

1) The cost to BLM to develop an Engineering, Design and Construction (ED&C) Plan for reclamation should the operator not reclaim (implementation of the reclamation plan).

a) Reported costs for plan preparation have ranged from 0.5 to 10 percent of the estimated operation and maintenance costs.
b) You should base your amount on a survey of similar contracts within your state.

2) A contingency fund to cover unforeseen circumstances related to the ED&C Plan.

a) Federal and state agencies that routinely prepare construction cost estimates generally apply a contingency of 3 to 10 percent of the estimated operation and maintenance costs.
b) You should base your amount on a survey of similar fees within your state. Where State law specifies the amount, please use that figure.

3) The prime contractor's profit of approximately 10 percent of the estimated O&M costs.

4) The contractor's liability insurance premium equal to 1.5 percent of the estimated labor costs for the project with estimated contract costs over $100,000.

5) A set amount equal to 3 percent of the estimated O&M costs for the payment of premiums for both a performance bond and a payment bond as required by the Miller Act with estimated contract costs over $100,000 (40 U.S.C. 270et seq.).

6) BLM's Labor and Operations costs for the Field and State offices to administer the contract.

a) Estimates for covering the contract administration ranges from 10 to 18 percent of the estimated O&M costs.

b) You should survey your contract administration and inspection costs to determine the most reasonable amount for your state.

7) BLM's indirect costs (building rental, electricity, telephone, etc.). The indirect cost rate to be assessed on all cost recoverable, reimbursable, trust, and road maintenance projects for FY 2003 is 17.8 percent (see WO IM 2003-011, October 8, 2002).

## Determining the Acceptability of a Reclamation Cost Estimate

The responsible BLM office should cost out the reclamation operation to ensure the operator's estimate is acceptable. The attached *Reclamation Cost Estimate Summary Sheet* (Attachment 2) is provided as an aid in the process of documenting the reclamation cost estimate. Also attached is a *Reclamation Financial Guarantee Checklist* (Attachment 3) that should be used in calculating the engineering and environmental costs required to properly stabilize and reclaim the disturbed area. The checklist is designed to accompany the *Reclamation Cost Estimate Summary Sheet*. Neither the summary sheet nor the check-list are all-inclusive, but both are intended to serve as a reminder of issues that should be considered.

Additional sources that may be useful in conducting a cost analysis are: applicable parts of the Office of Surface Mining "Handbook for Calculation of Reclamation Bond Amounts" (http://www.wrcc.osmre.gov/), BLM's Solid Minerals Reclamation Handbook H-3042-1, the Caterpillar Performance Handbook, Western Mine Engineering, Means Site Work Cost Data, Dataquest (equipment operating and owning costs), and Heaprec (U.S. Bureau of Mines software for calculating reclamation costs).

## Alternative Method for Notice Operations

For proposed exploration to be conducted under a Notice it may be appropriate for BLM to develop and use a standard reclamation cost schedule (Excel spreadsheet) in lieu of detailed calculations of financial guarantee amounts based on engineering designs. The concept behind the use of a standard amount for a reclamation cost estimate is to keep the workload in calculating the reclamation costs commensurate with the risk associated with the activity. The schedule may be developed based on local/regional costs to reclaim typical notice-level activities (roads, drill pads, drill-hole abandonment, trenches, pits, structure removal, site stabilization, re-vegetation etc.) for specific kinds of terrain (topography). Such a schedule may be developed by the BLM specialist conducting a survey of local/regional-licensed contractors/excavators to determine an average reclamation cost for a specific activity. The cost estimate may be expressed in dollars per acre, dollars per linear foot, or some other unit of measure that is appropriate for the particular activity.

Attachment 4 (*Reclamation Cost Model for Notice-Level Operations*) is an example of a standard reclamation cost schedule concept that has been adapted to a cost model (Excel spreadsheet). The model can be modified to accommodate different sizes and types of equipment for specific activities and terrains in order to develop the input costs.

Where a BLM State or field office develops a reclamation cost schedule for estimating the amount of the required financial guarantee for Notice operations, the schedule must be reviewed every two years to ensure the costs inputs are kept current.

A standard reclamation cost estimate should only be used where the Notice operation meets the activity and terrain profile used in establishing the standard amount. The use of a standard schedule for the reclamation cost estimate is optional and an engineering cost analysis is always an acceptable alternative. In all cases, the financial guarantee estimate should always be sufficient to fully reclaim the site, using a third party.

## Review Results and Decisions

Acceptable Review Results - When you have received an estimate that is acceptable, you must provide the operator with a written decision as to the amount of the required financial guarantee (43 CFR 3809.554(b)). An operator may not begin operations under a new or modified Notice or approved Plan of Operations without first providing BLM with an acceptable financial guarantee that meets the requirements of 43 CFR 3809.551 thru 3809.572. Notices on file with the BLM on January 20, 2001 that are extended as provided for under 43 CFR 3809.333, may continue operations for 60 days from receipt of the decision to submit an acceptable financial guarantee (WO IM 2003-042).

Unacceptable Review Results - If you find the operator has incorrectly calculated operating and maintenance costs or you find that the estimate is based on out-of-date cost data that does not reflect the actual cost of reclamation; the estimate will not be accepted. When an estimate is not acceptable, you must notify the operator, in writing (decision), of the unacceptability, identify the deficiencies or errors that led you to your conclusion, and require a submission of a corrected calculation. You must also advise the operator to incorporate the administrative costs outlined above if they are not included in the estimate.* Where the reclamation cost estimate for a new Notice is not acceptable to the BLM, the Notice will not be considered complete as required under 43 CFR 3809.301. A Plan of Operations reclamation estimate cost/financial guarantee should be submitted by the operator at a time specified by BLM [43 CFR 3809.401(d)]. Operators are prohibited from commencing operations until a financial guarantee has been provided that is acceptable to the BLM [43 CFR 3809.605(d)]. If you find that the estimate for an extended Notice is not acceptable, you must issue a decision (Additional Information Required) as described in WO IM 2003-042, giving the operator 30 days from receipt to provide all of the requested information.

Decisions regarding Reviews – Decisions relating to the acceptability or unacceptability of a financial guarantee are subject to appeal under the provisions of 43 CFR 3809.800. An operator may elect to seek a State Director review under 43 CFR 3809.800(a) or file an appeal directly with the Office of Hearings and Appeals (OHA) under 43 CFR 3809.801. When the review and evaluation of a financial guarantee and/or instrument has been conducted by the State Office, a request for State Director review under 43 CFR 3809.806 may not be accepted.

* A financial guarantee is composed of the reclamation cost estimate and the required administrative costs.

# EXAMPLE: RECLAMATION COST ESTIMATION SUMMARY SHEET

(Summary Sheet does not include BLM's Indirect Cost Rate of 17.8 %)

Notice [ ] Plan of Operations [ ] BLM Case-file No. _____

Project Name: _____

Enter those values in the cost estimate that are appropriate to this project. All reclamation costs are to be calculated as third party contracts. This summary sheet is to be accompanied by a map and worksheet describing how each itemized cost estimation was calculated.

## A. EARTHWORK/RECONTOURING

| ITEM | LABOR[1] | EQUIPMENT | MATERIALS | TOTAL |
|---|---|---|---|---|
| 1. Roads | $ _____ | $ _____ | $ _____ | $ _____ |
| 2. Drill Site(s) | $ _____ | $ _____ | $ _____ | $ _____ |
| 3. Drill Hole Abandonment | $ _____ | $ _____ | $ _____ | $ _____ |
| 4. Pits/Adits/Trenches | $ _____ | $ _____ | $ _____ | $ _____ |
| 5. Process Ponds | $ _____ | $ _____ | $ _____ | $ _____ |
| 6. Heaps | $ _____ | $ _____ | $ _____ | $ _____ |
| 7. Dumps (Waste & Landfill) | $ _____ | $ _____ | $ _____ | $ _____ |
| 8. Tailings | $ _____ | $ _____ | $ _____ | $ _____ |
| 9. Structure & Building Areas | $ _____ | $ _____ | $ _____ | $ _____ |
| 10. Storage & Equipment Areas | $ _____ | $ _____ | $ _____ | $ _____ |
| 11. Drainage Control | $ _____ | $ _____ | $ _____ | $ _____ |
| 12. Mobilization/Demobilization | $ _____ | $ _____ | $ _____ | $ _____ |
| 13. Miscellaneous[2] | $ _____ | $ _____ | $ _____ | $ _____ |
| SUBTOTAL "A" | $ _____ | $ _____ | $ _____ | $ _____ |

## B. REVEGETATION/STABILIZATION

| ITEM | LABOR[1] | EQUIPMENT | MATERIALS | TOTAL |
|---|---|---|---|---|
| 1. Roads | $ _____ | $ _____ | $ _____ | $ _____ |
| 2. Drill Site(s) | $ _____ | $ _____ | $ _____ | $ _____ |
| 3. Pits/Adits/Trenches | $ _____ | $ _____ | $ _____ | $ _____ |
| 4. Process Ponds | $ _____ | $ _____ | $ _____ | $ _____ |
| 5. Heaps | $ _____ | $ _____ | $ _____ | $ _____ |
| 6. Dumps (Waste & Landfill) | $ _____ | $ _____ | $ _____ | $ _____ |
| 7. Tailings | $ _____ | $ _____ | $ _____ | $ _____ |
| 8. Structure & Building Areas | $ _____ | $ _____ | $ _____ | $ _____ |
| 9. Storage & Equipment Areas | $ _____ | $ _____ | $ _____ | $ _____ |
| 10. Drainage Control | $ _____ | $ _____ | $ _____ | $ _____ |
| 11. Monitoring | $ _____ | $ _____ | $ _____ | $ _____ |
| 12. Miscellaneous[2] | $ _____ | $ _____ | $ _____ | $ _____ |
| SUBTOTAL "B" | $ _____ | $ _____ | $ _____ | $ _____ |

## C. DETOXIFICATION/WATER TREATMENT/DISPOSAL OF WASTES

| ITEM | LABOR[1] | EQUIPMENT | MATERIALS | TOTAL |
|---|---|---|---|---|
| 1. Process Ponds/Sludge | $ _____ | $ _____ | $ _____ | $ _____ |
| 2. Heaps | $ _____ | $ _____ | $ _____ | $ _____ |
| 3. Dumps (Waste & Landfill) | $ _____ | $ _____ | $ _____ | $ _____ |
| 4. Tailings | $ _____ | $ _____ | $ _____ | $ _____ |
| 5. Surplus Water Disposal | $ _____ | $ _____ | $ _____ | $ _____ |
| 6. Fluid Management[3] | $ _____ | $ _____ | $ _____ | $ _____ |
| 7. Monitoring | $ _____ | $ _____ | $ _____ | $ _____ |
| 8. Miscellaneous[2] | $ _____ | $ _____ | $ _____ | $ _____ |
| SUBTOTAL "C" | $ _____ | $ _____ | $ _____ | $ _____ |

**ATTACHMENT 2-1**

| | LABOR[1] | EQUIPMENT | MATERIALS | TOTAL |
|---|---|---|---|---|
| D. **STRUCTURE, EQUIPMENT AND FACILITY REMOVAL** | $ _____ | $ _____ | $ _____ | $ _____ |
| E. **SUBTOTAL - OPERATIONAL PROJECT COSTS** (A THROUGH D) | $ _____ | $ _____ | $ _____ | $ _____ |
| F. **CONTINGENCY**[4] | | | | $ _____ |
| G. **INSURANCE**[5] (ON SITE LIABILITY) | | | | $ _____ |
| H. **BOND**[6] (PERFORMANCE AND PAYMENT) | | | | $ _____ |
| I. **PROFIT**[7] | | | | $ _____ |
| J. **BLM CONTRACT ADMINISTRATION**[8] | | | | $ _____ |
| K. **GRAND TOTAL** (E THROUGH J) | | | | $ _____ |

1. For Federal construction contracts. Davis-Bacon wage rates are required for contracts over $2,000. Wage rates also contain Federal Insurance Corporation of America (FICA), and other required coverage and benefits covering the workforce. If the quoted hourly rates contain FICA, Davis-Bacon wage rates and insurance bond premiums, the operator may sign a statement under penalty of USC 1001, that the above listed rates contain these items and that itemization of these costs are therefore not necessary.

2. Miscellaneous items should be itemized on accompanying worksheets.

3. Calculate and use only when mineral processing activities are involved. Fluid management represents the costs of maintaining proper fluid management to prevent overflow of solution ponds through premature cessation or abandonment of operations. Calculate a six month direct cost estimate which includes power, supplies, equipment, labor and maintenance.

4. A contingency cost is included in the reclamation cost estimation to cover unforeseen cost elements in the estimating procedure. Calculate the contingency cost as a percentage of the operational project costs as follows: up to and including $500,000, use 10%; over $500,000 to $5 million, use 8%; over $5 million to $50 million, use 6%; and greater than $50 million, use 4%.

5. Insurance premiums are calculated at 1.5% of the total labor costs. Enter the premium amount only on this line if insurance items listed in #1 above are not included in the itemized unit costs.

6. Federal construction contracts exceeding $100,000 require both a performance and a payment bond (Miller Act, 40 USC 270et *seq.*). Each bond premium is figured at 1.5% of the total operational project costs. Enter the sum of both premium costs on this line.

7. For Federal construction contracts, use 10% of estimated operational project costs.

8. For Federal construction contracts, use 18% of operational project costs for estimates up to and including $1 million. Use 14% of estimated project costs over $1 million to $25 million and 10% of estimated project costs over $25 million.

Attach sources/information used in cost estimate (examples: Caterpillar Performance Handbook, contractor's estimate, BLM state office procurement analyst, etc.) _____

# RECLAMATION COST CHECKLIST

**NOTE:** This checklist is provided to assist the operator in calculating the engineering and environmental costs required to properly stabilize and reclaim the area disturbed by mineral exploration and/or mining operations. The checklist is designed to accompany the RECLAMATION COST ESTIMATION SUMMARY SHEET. It is not all inclusive, but is intended to serve as a reminder of issues that should be considered.

## Access roads and drill pads

1. Mobilization and demobilization
2. Recontouring or regrading to approximate the original topography as closely as possible.
3. Removal of culverts.
4. Ripping or scarifying the surface.
5. Water diversion construction.
6. Restoration or stabilization of drainage areas or stream beds.
7. Revegetation.

## Drill hole and well abandonment

1. Use the requirements for drill-hole and well (water, monitoring and piezometer) abandonment as mandated by your state mining and/or environmental regulatory agencies. Include a graphic if necessary.

## Trenches, pits, shafts, and adits

1. Mobilization and demobilization.
2. Recontouring or regrading to approximate the original topography as closely as possible.
3. Revegetation.
4. Securing portals from public entry.

## Waste rock dumps, overburden, and interburden storage areas

1. Encapsulation, mixing or other engineered placement method in controlling acid rock drainage (ARD) migration.
2. Recontouring and regrading to approximate the surrounding topography as closely as possible to enhance stability, reduce susceptibility to erosion, and facilitate efforts to establish vegetation.
3. Diversion of run-on.
4. Covering with rock, clay, topsoil, other growth medium or other cover material.
5. Revegetation.

**ATTACHMENT 3-1**

## RECLAMATION COST CHECKLIST CONTINUED

**Dams for tailings ponds**

1. Covering with rock, clay, topsoil, other growth medium or other cover material.
2. Revegetation.
3. Rendering the dam incapable of storing any mobile fluid in a quantity which could pose a threat to the stability of the dam, or to public safety.
4. Construction of temporary containment basins and water treatment facilities for leakage or outflow of effluent.

**Impoundment for tailings**

1. Regrading to promote run-off and reduce infiltration.
2. Covering with waste rock, clay, topsoil, other growth medium or other cover material.
3. Revegetation.
4. Diversion of run-on.
5. Temporary containment basins and water treatment facilities for leakage or outflow of effluent.

**Heaps from leaching**

1. Cost of maintaining proper fluid management to prevent overflow of solution ponds through premature cessation or abandonment of the operation (six month direct cost estimate for recirculating process fluids). Include the cost of a Process Fluid Inventory, which typically runs from $15,000 to $35,000, depending on site complexity.
2. Rinsing, detoxification and neutralization procedures as approved in the notice.
3. Containment and treatment of outflows of residual chemicals or fluids from the heaps, including any disposal of surplus or drain down water. Include all engineering, development and reclamation costs.
4. Diversion of run-on.
5. Regrading to enhance structural stability, promote run-off, reduce infiltration, and control erosion.
6. Covering with waste rock, clay, topsoil, other growth medium or other cover material.
7. Stabilization and revegetation.

**Solution ponds, settling ponds, and other non-tailings impoundments**

1. Backfilling and grading as approved in the notice.
2. Restoration of the pre-disturbance surface water regime, if appropriate.
3. Proper disposal of process pond sludge.

**Building foundations, facilities, structures and other equipment**

1. Demolition costs to the level of the foundation and burial costs of the demolition debris on site, in conformance with applicable solid waste and hazmat disposal requirements.
2. Salvage operations and sale costs. No provision for salvage value or credit is permitted.

## RECLAMATION COST CHECKLIST CONTINUED

3. Off-site disposal costs of "1" above, in conformance with applicable solid waste disposal and hazmat requirements.
4. Costs of continued use in a manner that is consistent with the proposed post mining land use.

**Open pit mines**

1. Providing for the public safety.
2. Stabilization of pit walls or rock faces where required for public safety.
3. Construction and maintenance of berms, fences, or other means of restricting public access.
4. Costs associated with the creation and maintenance of a lake for recreation, wildlife enhancement, or other beneficial use.
5. Revegetation

**Underground mines**

1. Sealing shafts, adits, portals, and tunnels to prevent access.
2. Construction and maintenance of berms, fences, or other means of restricting access.

**Revegetation**

1. Application of top soil or other growth medium.
2. Seed bed preparation.
3. Selection of appropriate species of seeds or plants (consult BLM staff specialist).
4. Addition of soil amendments such as fertilizers, mulches, or other compounds to assist in plant growth.
5. Planting or seeding (equipment, personnel, cost of seeds/plants).

**Site Maintenance, Monitoring, and Evaluation**

1. Any site monitoring costs as required by the BLM.
2. Monitoring well costs for heaps, leach fields, bioreactors and tailings ponds as required by the [insert the requirements mandated by your state's mining and/or environmental regulatory agency}.
3. Evaluation to determine whether the revegetation and slope stability meet the criteria established for bond release or project closeout if work is done by BLM contractor.

Jerome C. Gatto

230 East Broadway
Salt Lake City, Utah 84111

EXHIBIT
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MARCH 5, 2004

Ms. Sally Wisely, State Director
Department of the Interior
Bureau of Land Management
324 South State Street
Salt Lake City, Utah 84111

Re: 3809
(UT-923) (UTU-075884)
(UTU-078275) (UTU-078273)

NOTICE OF APPEAL
CERTIFIED MAIL 7000 1670 0005 9166 7506

Attached hereto find a copy of your Decision , dated February 27, 2004 granting Unique Mineral Inc, a stay , 43 CFR 3809.800 not to allow Camarillo Natural Stone L.L.C., to mine the slate of the Spectrum Quarry, This Decision is hereby appealed to the Interior Board of Land Appeals
Pursuant to 43 CFR Sacs. 4.411 and 4.13., and appellant motions the IBLA not to issue any rulings concerning the appeals of the appellant now before the Court, until this appeal is heard.

Quoting in part, of this decision, speaks of complicity, a feeble attempt to quickly move to a contest proceeding. It will never happen. "proper functioning of the review process". Appellant is many things, but not naïve. The ex prate conversations by the Solicitor with the IBLA is insulting.

Appellant will file a detailed appeal within the time limit, specifying the reason why this stay cannot stand, and sustain the allegation of complicity, and serious ex prate violations.

Sincerely,

All copies sent certified mail.

cc. IBLA, Fillmore Field Office, State of Utah DOGM, Levin Stone, Unique Minerals, Office of Solicitor.

Phone 801-596-2600 • Fax 801-359-2659

# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
Interior Board of Land Appeals
801 N. Quincy St. Suite 300
Arlington, VA 22203

703 235 3750 703 235 8349 (fax)


EXHIBIT
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March 19, 2004

Appeal of

CAMBRILLIC NATURAL STONE, L.L.C.

UTU-075884, etc.
State Director Decision

The above appeal has been received and docketed under the number IBLA 2004-158. Please refer to this docket number in any communication, pleading, or other document relating to this appeal.

The Board sends out some orders and decisions by FAX. If you are interested in receiving Orders or Decisions by FAX and your FAX number does not appear on your notice of appeal or other document already filed in regard to this appeal, please provide your FAX number to the Board by sending a FAX to the Board's FAX number (703-235-8349) or by placing it on any document you file with the Board in the future.

Also, please consider including, along with the hard copy of any filing, an electronic copy on either a 3.5-inch floppy diskette or a CD-ROM, in WordPerfect or Microsoft Word format.

Thank you.

Bruce R. Harris
Deputy Chief Administrative Judge

Jerome C. Gatto

230 East Broadway
Salt Lake City, Utah 84111

March 23, 2004

United States Department of Interior
Office of Hearings and Appeals
IBLA
801 N. Quincy Street Suite 300
Arlington, VA. 22203

Certified Mail 7003 2260-0002-0243-3033

Re: Proof of Service IBLA 2004-158

Pursuant to the rules Number 5. Proof of Service regarding Adverse Parties find copies of the Certified Green Cards in this Matter, 07 in number.

Sincerely,

Jerome Gatto
Manager Owner
Camarillo Natural Stone L.L.C.
230 East Broadway Suite 1205
Salt Lake City, Utah 84111

Phone 801-596-2600 • Fax 801-359-2659

**Jerome C. Gatto**

230 East Broadway
Salt Lake City, Utah 84111
Phone 801-596-2600

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2 PAGES

DATE: 4-1-2004

TO: U.S. Dept. of Interior

OF: Interior Board of Land Appeals

FAX NUMBER: 703-235-8349

FROM: Jerome C. Gatto

FAX NUMBER: 801-359-2659

NUMBER OF PAGES INCLUDING COVER SHEET 04

COMMENTS Request for Extension of time to File Appeal RE: 2004-158

**Jerome C. Gatto**

**230 East Broadway**
**Salt Lake City, Utah 84111**

APRIL 1, 2004

U.S. DEPARTMENT OF INTERIOR
INTERIOR BOARD OF LAND APPEALS
OFFICE OF HEARINGS AND APPEALS
801 N. QUINCY ST. SUITE 300
ARLINGTON, VA. 22203

REQUEST FOR EXTENSION OF TIME
REGARDING IBLA 2004-158

APPELLANT CALLED THE OFFICE OF IBLA ON MARCH 31, 2004, ASKING HOW TO REQUEST AN EXTENSION OF TIME. APPELLANT WAS TOLD TO FAX THE REQUEST, FOLLOWED BY A HARD COPY.

ON MARCH 5, 2004, APPELLANT FILED A NOTICE OF APPEAL CONCERNING THE DECISION OF STATE DIRECTIOR SALLY WISELY, STATE OF UTAH. A COPY OF THAT NOTICE IS ATTACHED.

ON MARCH 24, 2004, APPELLANT RECEIVED A LETTER DATED MARCH 19, 2004, FROM BRUCE R. HARRIS, DEPUTY CHIEF ADMINISTRATIVE JUJDGE, DOCKETING SAID MATTER 2004-158, ON MARCH 19, 2004.

APPELLANT HAD OPEN HEART SURGERY, 5 BYPASSES, A FEW YEARS AGO, AND IS NOW SUFFERING SOME ADVERSE EFFECTS, FROM THAT PROCEDURE.

**FOR THIS REASON, APPELLANT REQUESTS AND EXTENSION OF TIME TO FILE THE COMPLETE APPEAL UNTIL MAY 4, 2004.**

RESPECTFULLY SUBMITTED.

Jerome C. Gatto

**Phone 801-596-2600 • Fax 801-359-2659**

# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
Interior Board of Land Appeals
801 N. Quincy St. Suite 300
Arlington, VA 22203

703 235 3750 703 235 8349 (fax)

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| | | |
|---|---|---|
| IBLA 2004-158 | : | UTU-075884, et al. |
| | : | |
| CAMBRILLIC NATURAL STONE, L.L.C. | : | Mining Plan of Operation |
| | : | |
| | : | Extension of Time Granted |

ORDER

Appellant seeks an extension of time to file a statement of reasons for this case stating that medical complications after his heart by-pass procedure require that he have more time to prepare and submit it. That request is granted. Appellant shall file a statement of reasons on or before May 4, 2004.

H. Barry Holt
Chief Administrative Judge

APPEARANCES:

Jerome C. Gatto
Cambrillic Natural Stone L.L.C.
230 East Broadway Suite 1205
Salt Lake City, UT 84111

**FAX: 801-359-2659**

cc: Sally Wisely
State Director
Bureau of Land Management
U.S. Department of the Interior
324 South State Street
Salt Lake City, UT 84111

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# United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, UT 84631
http://enbb.blm.interwebdesign.com

IN REPLY REFER TO:
3809
(UT-010)
UTU-075845

January 4, 1999

JEROME GATTO
230 E BROADWAY
SALT LAKE CITY UT 84111

Dear Mr. Gatto:

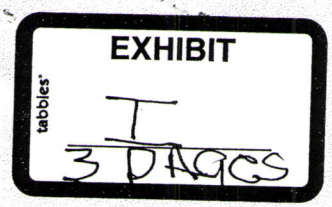
This office recently received a Plan of Operations to conduct mining related activities in the N½ Sec. 23, T. 17 S., R. 13 W., SLBM. This area overlaps portions of the Jerry G #1 and Jerry G #2 placer mining claims.

Unique Minerals (1359 Park Street, Salt Lake City, Utah 84105) is listed as the operator for this proposed operation.

Sincerely,

Ron Teseneer
Geologist

cc: Richard Stone, Unique Minerals, 1359 Park St., SLC, UT 84105




May 10, 1999

Mr. Richard Stone
Registered Agent
Unique Minerals
1359 Park Street
Salt Lake City, Utah 84105

CERTIFIED MAIL ARTICLE P 067-344-642

**Re: Letter from Mr. Ron Teseneer**
**January 4, 1999**

Mr. Stone,

I am indeed appalled at your deliberate fraudulent activity concerning you and your so called "group" for overstaking my claims and the claims of my friends and associates concerning the area outlined in the letter above mentioned. We have had these claims for years and we will keep them.

Upon the investigation of the records, and our physical examination of our claims this past week, I am appalled at your overstaking childlike activity. We have paid for, and have our legitimate claims in this area, and you, nor the King of England, will not impede our activity.

I have drafted the suit, I am filing against you and **against each individual listed in your report to the State of Utah.** I will sue you individually, collectively, and under your LLC Umbrella. My attorney will make the necessary corrections of my draft in order to be in full compliance with the law.

You have 5 (Five) Business Days, from the receipt of this letter to invalidate your claims in the area mentioned. You will properly record your invalidation of your claims, duly recorded with the Bureau of Land Management and the Millard County Recorder.

You will then supply me with written notice that you have corrected your overstaking, on my claims and of those my associates.

If you choose not to do so, I will proceed with the law suit, and guarantee you and your group consistent media publicity. Additionally, the State, Federal and Local Agencies that govern your conduct shall be fully apprised.

You can discuss with your lawyer the elements of fraud. By your actions you have diligently fulfilled the criteria.

Try Me.

W. Pappas
D. Hamaker
D. Gilbert Athay
L. Burningham
B. Babbitt
P. Shea

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR. RICHARD STONE
REGISTERED AGENT
UNIQUE MINERALS
1359 PARK ST
SLC, UT 84105

4a. Article Number

P 067 344 642

4b. Service Type

☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

MAY 11 1999

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: ~~*(Addressee or Agent)*~~

X R Stone

PS Form **3811**, December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

# Fax Coversheet

**Date:** Thursday, May 13, 1999 **Time:** 6:23 PM

**To:** Jerome Gatto

**Company:**

**Fax Phone #:** 3592659

**CC:**

**From:**

**Subject:**

**Total # of Pages (including cover):** 4

## Memo:

# UNIQUE MINERALS INC.

1359 Park Street, Salt Lake City Utah. 84105 Phone-Fax-Message (801) 4660206

Mr Jerome Gatto
230 East Broadway
Salt Lake City UT 84111

Dear Mr Gatto.

Got your letter. I understand your feelings. When we searched the desert, we only made claims on areas that we thought were not claimed, and when we ran across claim monuments, they were very old, and there was no activity on the grounds they were near. We checked records back several years, and found no other claimants on these lands. I did not check the updated records on the computer at the BLM office. The records on the microfische were not updated. I did, after receiving your letter go to BLM, and at that time secured an updated claim schedule showing your claims. I did the paper work for the group, but being a greenhorn in the doings of making claims, was not aware of all the particulars one must go through. Our group knows, however, that we cannot go into your claimed area because it is yours. We never had intentions of taking your claims, or anyone elses'. This kind of thing has happened thousands of times, and breaks no common law. We simply won't go into your area. We have three areas where we are already setting up operations. Each one is probably at least a mile from your claims. I believe your claims lie a little northeast of "Spectrum". I saw some ground disturbance there, but it looked more like casual Trilobite diggings.

Our group would like to invite you to joint venture with us if you are in a position. The material in your area is not the material we need for our present venture. We have infused nearly one million dollars in equipment, and working capital to get this venture started. We need additonal funds to increase capacity, and

have company stock available for you if you are interested. We are taking the working capital as loans to the corporation. The money is projected to be paid back within two years. After the two year period our projection shows that annual earnings will match the amount of the original investment. Really, the sky is the limit.

As to your claims we have overlapped. we don't know exactly what your boundaries are. If you send us the coordinates to your claims, we can have our claims ammended. If you have any difficulty doing this, pleas let me know. Not many claimants have had their claims surveyed. We have a satellite location device that will precisely mark out your ground about as exact as can be, and all it take is a couple hours.

I believe it would be more fun to join forces than to fight don't you? To join with us does not mean you share your present claims with us. You will simply own a share of ours and the operation which is destined to be a winner. Our present worry is to be able to keep up with demand.

The CFO of our company is Larry McCurdy. He is best reached on his cell phone: 801-209-8403. Our COO is Terry Cook, an excavation contractor from the Spanish Fork area. We have a good team, and we all get along well. Give us a look at your convenience. I am just the Corp. Secretary, but I am at your disposal at any time. I live about 5 minutes from your office. My phone-fax-message number is: 466-2006. Cell: 209-8403

I hope to hear from you soon on your feelings about this proposal.

Best regards

Dick Stone

*Unique Minerals Inc*

June 19, 2000

M W Hamilton
Rocanville/Wing Joint Venture
8235 Douglas Ave. Suite 1201
Dallas TX 75225

Certified Mail 7099 3220 0005 8299 5776
Return Receipt Requested

Gentlemen,

I am very disappointed that intelligent business men who obviously have some business acumen, knowledge of the mining business, and of mining laws, would jump a valid claim, and try to file a plan of operation in the exact location where we have established our quarry, or in any other territory where there are valid claimants.

Unique Minerals has met all Federal, State, and County requirements on it's claims, and has "possesory right" to the claims you have filed over. Please refer to BLM-WO-GI-91-4130 Federal Government publication (April 1996) page 13 "CLAIMANTS RIGHTS". This not only spells out our "possesory rights, but also states that mining claims and sites are considered real property. We have the right to sell them, lease, rent, and will to heirs, Anyone going onto our claims and taking material will be guilty of criminal trespass, and theft of goods.

The BLM will not stand behind you if you continue to attempt to take over our property. If anyone tries to do so, we will have Sheriff Phillips of Millard County out on our property in a heart beat.

1359 Park Street Salt Lake City Utah 84105 Phone-Fax-Message (801) 466-2006

# *Unique Minerals Inc*

If you take time to read the attached 8 pages, you will see why it was impossible to work with Smith and Abeyta.

The first contact to Unique Minerals by Mr Weston and Dr Richards, was a hand written note left on my door step threatening legal action. It reminded me of a bill collector tactic. Smith and Abeyta brainwashed those two, and they apparently bought a part of a story without fully checking the whole story.

I know you have been sold a bill of goods concerning me and the stockholders of Unique Minerals. I have included an eight page history of why Ted Abeyta, and Don Smith do not have valid claims where you are attempting to operate, and why you do not either. You probably thought we could be easily quashed, but understand we are ready to fight for our claims. We have superior rights.

If you take the time to check the whole story, you will have the opportunity to gain a better perception than you have now.

We remain steadfast

Richard Stone
Secretary/Resident Agent

1359 Park Street Salt Lake City Utah 84105 Phone-Fax-Message (801) 466-2006

HISTORY OF TRANSACTIONS BETWEEN TED ABETYA, DON SMITH, RICHARD STONE, LARRY McCURDY, NELDON ADAIR, BARRY KANDEL, AND JASON STONE.

1- Beginnings were in early May 1998. Ted Abeyta called Richard Stone to a meeting with Don Smith and Abeyta himself. The three of us met at the Village restaurant in Murray Utah. At that time Richard Stone was offered 33 and 1/3% interest in a venture, mining a slate deposit, and a farming project in southern Utah. Their verbal agreement was that Richard Stone would invest $5,000.00 to $6,000.00 seed capital to help launch the projects. Ted Abeyta wrote an agreement to that effect. The three parties, Smith Abeyta and Stone, signed the agreement.

2- By the end of August 1998 more than $6,000.00 were spent by Stone. Two thousand dollars were given directly to Don Smith, who shared an undisclosed amount with Ted Abeyta. $1,600.00 were paid to file "Notices of Location" several times, for the claims. This was done in Millard County Recording office. Don Smith kept saying that we had 60 days to record the claims at BLM, and that the claims were safe. Every time the 60 days were up we would go to Millard County, pay the recording fees again. **Richard Stone did research and found that this did not secure the claims**. It is necessary to file them at the Bureau of Land Management office to gain superior rights if indeed they were not already claimed. Smith and Abeyta did not bother to check, nor were they concerned about filing with BLM. So at that time there were no real claims, just 32 notices of Location. Three thousand six hundred dollars were spent for claims ($1,600.00) two thousand dollars directly in Smith and Abeyta's pockets, and another $2,500 spent in gas, travel, and restaurants. That amounted to $6,100.00 spent, and no legal claims in our possession.

3-Smith and Abeyta contributed almost nothing to the expenses in item 2. Smith contributed -0-, and Abeyta would pull 2 or 3 dollars from his pocket occasionally as a contribution to a restaurant bill. Ted Abeyta and Don Smith brought a number of people on these trips and meetings, i.e. Harold Heck, Jerry Fitzen, John Bonzo, Quint and Vince Vitting, Neldon Adair, Larry McCurdy, Clair Rogers, a Mr Hansen, and several others (names not recalled).

4- During the period from May to September, Richard Stone saw that this critical seed capital was being wasted on extraneous non productive meetings, personal expenses largely of Don Smith, and whatever monies Don shared with Ted Abetya.

Richard Stone complained numerous times that the money was being wasted, and that when monies were needed for critical start up expenses, like equipment, BLM filing fees, there would be none, and where would they come up with their share of the start up expenses once the seed capital was senselessly exhausted. The common answer from Don Smith and Ted Abeyta was, "We have worked on this project for a year and a half, and we deserve to get paid". Richard Stone on numerous occasions stated that if the company had no earnings that it was impossible to get paid, and that business owners simply have to perform "sweat equity".

There is no "Big Daddy" that would pay them (us) because we ARE the "Big Daddies" with no money. The way you get paid is by putting the company is a position to earn money by using the funds directly into the business for essentials that will make the company go, and to NOT put the money into their pockets. Don Smith and Ted Abeyta replied that THEY are company necessities that had to be paid to function, and just as important as filing fees, machinery, etc. Richard Stone argued many different occasions that this was an impossible situation to make a company work. Don Smith and Ted Abeyta were eating the cow, and expecting it to still give milk after it was eaten. This example was used many time, but on deaf ears.

5- Don Smith was constantly pushing for personal money for personal expenses. He started offering portions of his 33 and 1/3 equity in the deal for sale. There was still no Corporation, nor stock issued. He sold Barry Kandel 10% of his position for $2,000.00 cash. He sold Mike Beesley (Abeyta's Son in Law) 10% of his position for $5,000.00. Subsequently, after the Corporation was filed, he wanted to sell the Corporation 3 and 1/2% of his

position for $3,500.00. They made a deal with the Crapo family from Delta Utah, which fell through, but after they had also received an undisclosed amount of money.

Next I was told by Smith that controlling interest in their project was sold to Mr Weston and Dr Richards for $1,000.00. Smith and Abeyta solicited numerous people to loan money to the "Company".

Abeyta and Smith were offering mostly "Double your money back" deals. They pocket the money, and obligate/encumber Corporation to repay the debt. (The company then formed "Galaxy Minerals and Flat Crystals Inc).

6- Ted Abeyta continues to pursue "Bank Trading". He believes he will come into many milions of dollar. He has promised as many as 15 different people a million dollars each. He has also promised these people stock in the slate mine and the farm project.

Abeyta promised Larry McCurdy an equal share in the slate/farm project corporation. Larry McCurdy had borrowed $2,500.00 from a loan company and had given it to Abeyta. For this the 1/3 equity in the slate mine, and a percentage ownership in a gold mine in Idaho, plus a million dollars when the bank trading deal went through.

Abeyta promised Richard Stone, Don Smith, John Bonzo, Micael Howery, Val McCleary David Maddox, Randy Abeyta, and Neldon Adair a million dollars each. In addition he promised Neldon Adair a new Chevy Suburban, and $5,000.00. This was for his efforts in starting the mine. All these promises were done outside the bonds of the corporation.

7- Up to this time, Abeyta wanted 1/3 for himself, 1/3 for McCurdy, 1/3 for Don Smith, 1/3 for Richard Stone, 5% for Michael Howery esq, 1% for David Maddox esq. He also wanted to include equity to his son Randy Abeyta, to John Bonzo, and Val McCleary. I don't know who else was on his list.

8- Later Abeyta started to change the equity structure. He started pushing his son Randy as an equal partner for 25%. Don Smith already sold 20% of his 33 1/3%. That would have left Don with 5%. This proposal started a heated debate between Smith, Stone, and Abeyta. Don Smith in a private meeting with Abeyta, stated that he would not go along with Randy being an equal partner, and that the original agreement was to be an equal 1/3 between the 3 men.

Smith stated that if Randy becomes a partner, that Abeyta would have to share his stock with him. Ted agreed, per Don Smith. A meeting was called between Smith, Stone, and Abeyta. Abeyta brought a written agreement stating that Smith will own 13%, Kandel 10%, Beesley 10%, Abeyta 20%, Randy Abeyta 20%, and Richard Stone 20%. Don Smith pointed out to Abeyta that Abeyta had changed the deal "AGAIN", and that "That ain't the way it's supposed to be". Richard Stone argued against it, and stated he had a son too. Abeyta finally angrily conceded to put Jason Stone in as a 16 and 2/3% partner, just the same as Randy Abeyta. Richard Stone would retain 16 and 2/3% and Ted Abeyta would retain 16 and 2/3%. In that meeting Abeyta had listed a dozen people to whom he had committed equity and money. He wanted to share company stock with them. Richard Stone told him to stop trying to commit equity that was not his to other people, and to commit only what he owned.

9- Don Smith and Ted Abeyta many times assured Richard Stone that filing notice of claims with Millard County was all that was necessary to protect these projects from other claimants filing and taking away the rights to these properties for themselves. Richard Stone was not convinced because he read in various government publications that there were other requirements to complete, and perfect these claims. **He felt that without fulfilling these other requirements, that the claims in reality were not valid, complete, or legally protected.**

10- Ted Abeyta, against the wishes of Richard Stone, Larry McCurdy, and Neldon Adair, rented a warehouse in Delta UT. The first month rent was $450.00. Subsequent months rental fee was $650.00 per month. At that time, there was no mining equipment, nor money to buy it. There were no perfected mining claims and permits. There was no Corporation. This money was paid to the Vitting brothers, the owners of the warehouse.

11- Larry McCurdy finally confronted Abeyta about his equal equity share in the mining project. Abeyta told him that the equity was already split between 3 people, but he would himself take care of Mr. McCurdy. Larry McCurdy met with Smith, Stone, and Abeyta. This equity was discussed. He said that in a meeting subsequent to the above mentioned meeting, that Ted Abeyta agreed to give him 10% of the company. Smith Stone, and Abeyta agreed that McCurdy deserved what he was promised, but the contention at that time was that out of whose equity should it be taken. That matter was never settled, which was the reason stock was never issued from the new Corporation.

12 A meeting was held with McCurdy, Smith, Abeyta, and Adair. Ted Abeyta had committed that Adair would be the company President and Operating Officer. Stone was not present. McCurdy and Adair brought in a loan from a friend in the amount of $5,000.00. The money was to cover the filing of the claims at BLM.

Immediately, Smith and Abeyta demanded $2,000.00 each for back salaries. McCurdy and Adair both objected bitterly, but Abeyta and Smith claiming majority vote fiercely demanded the money. McCurdy and Adair gave them $1,000.00 each, and promised them another $500.00 each in the coming week. When Stone heard about this he was very upset because here again was Smith and Abeyta spending critical seed capital for personal use. Now there was not enough money to cover the fees for BLM. During that time Smith was trying to borrow $10,000.00 from his brother for the company. In that meeting Abeyta said; "That will be $5,000.00 for your, (Smith) and $5,000.00 for me (Abeyta)."

13- About one week later, a meeting was held. Present were, Abeyta, Smith, Stone, Adair, and McCurdy. It was to be the first stockholder meeting. It ended up in simply a big confrontation. Smith was fiercely demanding the $500.00 promised him. Abeyta claimed her personally paid $650.00 rent for the warehouse, plus he wanted his $500.00 plus the $650.00. At that meeting Smith was gave $500.00. He signed a written agreement, that if he got the $500.00 he would not be active in the operation, and would be merely a passive stockholder in the company. Ted Abeyta agreed to wait a short time for his $500.00 and the $650.00 rent. Abeyta vigorously agreed that Smith and he deserved the money, and that Don Smith should not sign an agreement to cease active involvement of the company. The meeting ended.

Less than one week later, Smith was negotiating with a California mining operation to do a joint venture with the company. This was against the wishes of all but one of the stockholders, including Abeyta.

14 Richard Stone researched what was truly legal and properly needed to perfect the mining claims. The Millard County Courthouse, the Fillmore office of BLM and the Utah State office of BLM all informed Stone that the filing of "Notice of Location", was simply just that, and not a claim. To

perfect the claims, it was necessary to file at the Federal level. The cost of the filing was $135.00 per claim. For 22 claims that came to $2,970.00 Stone informed Abeyta and Smith numerous times that it was necessary to do this work and pay the money. Niether Smith or Abeyta would comment when this was brought up. Stone told them that since they had now effectually "Blown" Stone's more than $6,000.00 seed capital, and most of the subsequent $5,000.00 that they would now have to come up with their share of the filing fees. They did not!

15 McCurdy and Adair had the resources to bring $50,000.00 operating capital, and a contractor who would furnish 1.3 million dollars of trucks, and machinery to get the project going. They vowed that Smith and Abeyta now are thorns in the side of the project. They decided to file the claims properly themselves with their own claimants and capital. Stone filed the new claims without Smith and Abeyta as claimants, and paid the bill with Stone's own money. The BLM required $2,950.00 and Millard County required $352.00. Stone prepared the plan of operation, and submitted it to BLM in Fillmore Utah. Then Stone went to the Department of Oil Gas and Mining (DOGM), paid another $100.00 with the application to mine. Stone is now in possession of mining permits from BLM, and DOGM. All due diligence being properly performed by McCurdy, Adair, and Stone, the project was ready to launch.

16 Smith and Abeyta continued to raise money from other people for the mining project in which they had no interest. On one conversation with Abeyta, he quoted a list of expectant stockholders. This was sometime in May 2000. When the equity was added up, it came to over 150%.

17 Galaxy Minerals was shut down at the Utah State Department of Commerce. Smith and Abeyta demanded the shut down as majority stockholders in a meeting. The Corporation was withdrawn at the Utah Depatrment of Commerce. Several weeks later Smith and Abeyta reopened it and have proceeded to use this Corporation. On the Articles of Incorporation, Richard Stone is listed as 33 1/3 owner. McCurdy is listed as a 10% owner. They reopened the Corporation "as is". Smith and Abeyta called a stockholders meeting stating that Stone, McCurdy and Adair would be fired from their corporate offices.

18 At this time Unique Minerals Inc has legal POSSESORY RIGHTS to the claims under the law, and plans to keep them, and fight for them however necessary to NEVER LOSE THEM.

_____

By Richard Stone, Resident Agent, Secretary

your Notice will expire, and we will issue an order that you immediately cease all activity except reclamation.

Rex Rowley
Field Office Manager

Enclosures
Map
Reclamation Cost Estimate

cc: Tom Munson, UDOGM (S/027/074)
Jason Stone, 7458 Derry St., Harrisburg, PA 17111
Barry Kandel, 1003 Whippoorwill Dr., Clarks Summit, PA 18411-9671
Terry Murray, 726 Madison Rd., Magna UT 84044
Clair Rogers, 13480 S 2200 W, Riverton, UT 84065
Neldon Adair, 2081 W 13180 S, Riverton UT 84065
Terry Cook, 885 S Oak Dr., Woodland Hills, UT 84653
Larry McCurdy, 18458 W Carter Circle, Cedar Valley, UT 84103
Ted Abeyta, 42 W 6000 S., Murray, UT 84107
Interphase Corp, 3804 Highland Dr. #8, Salt Lake City, UT 84106

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631

OFFICIAL BUSINESS

UT PM 3300 20 FEB 2003 136 00.37 0 1428 0075 MAILED FROM FILLMORE UT

EXHIBIT
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2 PAGES

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, UT 84631

In Reply Refer to:
3800
(U-010)
UTU-075884

February 20, 2003

CERTIFIED MAIL #7000 1530 0006 2417 2710
RETURN RECEIPT REQUESTED

DECISION

| | | |
|---|---|---|
| DICK STONE<br>SEC/TREAS<br>UNIQUE MINERALS INC<br>7458 DERRY STREET<br>HARRISBURG PA 17111 | : | ADDITIONAL INFORMATION REQUIRED---<br>43 CFR 3809.552(a) |

Requirement to Concur With or to Submit Information to Revise Reclamation Cost Estimate

On January 21, 2003 we received your request to extend notice UTU-075884. Your notice has been conditionally extended. In order to permanently extend the notice, §3809.333 requires that a financial guarantee be provided in an amount and in a form acceptable to the BLM. Our review of your Notice indicates that you plan to disturb up to five acres. Since your notice is rather vague, we will assume for reclamation cost estimation purposes that your operation will continue to mine back into the outcrop you opened up several years ago (see enclosed map) disturbing about four acres on the hillside (leaving a 45° degree highwall), and that one acre will be disturbed by the road, crusher site, and topsoil storage. Based on those assumptions, we have calculated a reclamation cost estimate of $11,194 and are providing it to you for your review and comment. If you agree with our calculation, please submit written concurrence to us within 30 days of receipt of this decision. We will then issue another decision requiring you to submit a financial guarantee in that amount within 60 days of receipt of that decision.

If you would like to discuss the option of filing a financial guarantee for part of your operations (§3809.553) or, if you do not agree with our reclamation cost estimate, please contact this office. If we do not hear from you within 30 days of receipt of this decision,

EXHIBIT
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3 PAGES

# United States Department of the Interior

**BUREAU OF LAND MANAGEMENT**
**FILLMORE FIELD OFFICE**
**35 East 500 North**
**Fillmore, UT 84631**

In Reply Refer to:
3800
(U-010)
UTU-075884

May 15, 2003

CERTIFIED MAIL # 7000 1530 0006 2414 5868
RETURN RECIEPT REQUESTED

DECISION

| | | |
|---|---|---|
| LARRY MCCURDY | : | |
| PRESIDENT | : | 43 CFR 3809 |
| UNIQUE MINERALS INC | : | SURFACE MANAGEMENT |
| 18458 WEST CARTER CIRCLE | : | |
| CEDAR VALLEY UT 84103 | : | |

Reclamation Cost Estimate Required

On February 20, 2003, we sent Dick Stone a decision requiring additional information regarding the reclamation cost estimate for Notice UTU-075884. He received the decision on February 25, 2003, and was asked to respond within 30 days of receipt. He did not respond by March 27, 2003, so we are now informing you of the need of a reclamation cost estimate in order to extend Unique Minerals Notice.

You were sent a courtesy copy of the fore mentioned decision, which referenced the amount of $11,194 for our reclamation cost estimate; however, you weren't sent the spreadsheet cost model that was enclosed with it. We are enclosing the spreadsheet with this decision. If you agree with this estimate, you must submit written concurrence within 30 days of receipt of this decision. If you do not agree with the estimate, you must submit a revised estimate as requested in the previous decision, within 30 days of receipt of this decision. If you do not submit written concurrence or a revised estimate by that deadline, your notice will expire, and we will issue an order requiring you to cease all mining activity and to begin reclamation. Reclamation must begin within 30 days of receipt of the order and be complete at the earliest feasible time. You may submit a new notice or plan; however, since you extended your notice, you no longer have the option of deferring reclamation as allowed by § 3809.300(d), and according to § 3809.335, you must begin reclamation by the deadline.

Upon our receipt of your concurrence or your revised estimate, you will be issued a decision by the Utah State Office (USO) of the BLM, giving you 60 days to submit the financial guarantee. If we do not agree with your revised estimate, the USO will issue a decision that allows you 60 days to submit a

financial guarantee in the amount we calculate. If you do not agree with that amount, you may appeal that decision at that time. In any case, if you do not submit the financial guarantee within the 60 day deadline, your Notice will expire.

If you do not agree with, and are adversely affected by, this decision, you have the right to request review by the Utah State Director (SD), of the Bureau of Land Management, in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement must be filed in writing within 30 days after you receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SALT LAKE CITY UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision.

You may also bypass State Director review, and appeal directly to OHA 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 within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939. January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), 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 the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) 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:

(1) The relative harm to the parties if the stay is granted or denied,

(2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808, this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.

Rex Rowley
ACTING Field Office Manager

Enclosure
Cost Model Spreadsheet
Form 1842-1

cc: Tom Munson, UDOGM (S/027/074)
Barry Kandel, 1003 Whipoorwill Dr, Clarks Summit, PA 18411-9671
Terry Murray, 726 Madison Rd, Magna, UT 84044
Clair Rogers, 13480 S 2200 W, Riverton, UT 84065
Neldon Adair, 2081 W 13180 S, Riverton, UT 84065
Terry Cook, 885 S Oak Dr, Woodland Hills, UT 84653
Dick Stone and Jason Stone, 7458 Derry Street, Harrisburg, PA 17111
Gene Richards, 1256 Park Crest Cir, SLC, UT 84124
Ted Abeyta, 42 W 6200 S, Murray, UT 84107
Interphase Corp, 2804 Highland Dr #8, Salt Lake City, UT 84106

EXHIBIT
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3 PAGES


UNIQUE MINERALS INC.
18458 Carter Circle
Cedar Valley, UT 84013


October 1, 2003

Bureau of Land Management
Filmore Office
35 East 500 North
Fillmore, UT 84631

RE.: Appeal on Spectrum Quarry Approval to Cambrillic Natural Stone.
Refering to:
3800
(U_010)
UTU-075884
UTU-078275
UTU-078273

Dear Sirs:

We are **appealing** your decision to allow Cambrillic Natural Stone or anyone else to mine slate on the Specrum Quarry because of the following reasons.

It was the ruling of the IBLA that all mining should cease and issued a stay on the Spectrum Quarry to the BLM in the case concerning purchase of stone by Levin Stone, and any other potential purchaser, IBLA 2000-249, 2000-251, 2001-168, until they should give their decision as to whether the slate on Spectrum was a locatable material. It is still our contention that the slate is locatable as an uncommon, claimable material and that it is as uncommon as gold or silver.

We feel it is not in the public interest of the people of the United States or the State of Utah to allow mining on this area or that you can give an approval to mine on that claim until the IBLA gives their ruling, as that ruling can and will have far reaching effects on other areas of mining throughout the country. We therefore request that due to this issue, that you very carefully reconsider your decision as to the issuing of any approval on mining in the Spectrum area to anyone as it may be in conflict with the ruling of the IBLA at this time. The final decision of the IBLA should be forthcoming as it has been

three years since they have been working toward a decision and they have indicated it would be at least three year for their decision to be issued. We request that you abide by this stay until their final decision is issued. We feel that our claim in this area is superior and that our rights have been and will be violated on this issue.

We realize there is a large amount of stone in that mountain, but that it is a common material as sand and gravel, it is not. There are few places in the United States that this quality of Slate is available and is being mined. There are also places where there are mountains full of gold and silver and I have stood upon one of these mountains in the area of Congress, Arizona and picked the gold up off the ground with my own hands, but that does not make gold a common material any more than a mountain of slate makes it a common material. Both the University of Utah and BYU departments of Geology have declared that the slate at the Spectrum Quarry is an uncommon and locatable material. The BLM declared it locatable in 1958 to the application of Mr. Clyde Cheney when he sought to purchase stone out of the Spectrum Quarry and then changed their minds. Mr. Eugene W. Pearson, Mining-Valuation Engineer said that Mr. Cheney's application to purchase should be rejected because he believed the stone to be locatable under mining law. All of this and additional information is in the hands of the IBLA. We again request that you reconsider your decision until the ruling is issued by the IBLA.

**A State Director Review is Requested.** A stay is hereby requested by Unique Minerals Inc to the State Director on the approval granted by the BLM Filmore Office for Cambrillic Natural Stone to purchase stone and mine on the Spectrum Quarry. Please contact me if more information is needed. Thank you.

Sincerely

Gerald L. McCurdy

**Gerald L. McCurdy, President**

cc. Tom Munson, UDOGM (S/027/074)
Opie Abeyta, UT-924
John W. Steiger
IBLA
Cambrillic Natural Stone

Unique Minerals Inc.
18458 W. Carter Cir.
Cedar Valley, UT. 84013

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

**CERTIFIED MAIL™**

7002 3150 0001 5341 3841

Cambrillic Natural Stone
Attn, Jerome Gatto
230 E. Broadway
Salt Lake City, UT 84111

SALT LAKE CITY UT 84
PM
04 OCT
UNITED STATES POSTAL SERVICE
9264
84111

U.S. POSTAGE
PAID
WEST JORDAN, UT
84088
OCT 04, '03
AMOUNT
$4.42
00064754-18

84111X2442 06

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# United States Department of the Interior

**BUREAU OF LAND MANAGEMENT**
**FILLMORE FIELD OFFICE**
**35 East 500 North**
**Fillmore, UT 84631**

In Reply Refer to:
3800
(U-010)
UTU-075884

October 6, 2003

CERTIFIED MAIL #7002 3150 0004 1702 0204
RETURN RECEIPT REQUESTED

LARRY MCCURDY
PRESIDENT
UNIQUE MINERALS INC.
18458 WEST CARTER CIRCLE
CEDAR VALLEY UT 84103

Dear Mr. McCurdy:

Thank you for your phone call to Sheri Wysong on September 26, 2003, in which you explained that you needed more time to finalize the funding for Unique Minerals Inc.'s (UMI) operation in Section 24, T. 17 S., R. 13 W., and requested another 30 days to submit the required financial guarantee of $11,194. We will allow one more extension of time in which to submit the bond to the Utah State Office of the BLM. If the bond has not been submitted by October 27, 2003, your notice will expire, and we will be forced to pursue both UMI and the claimants to commence reclamation of the site.

If you have any questions, please feel free to contact Sheri Wysong at (435) 743-3124.

Sincerely,

Rex Rowley

Rex Rowley
Field Office Manager

cc: Opie Abeyta, UT-923
Jason Stone, 7458 Deery St., Harrisburg, PA 17111
Barry Kandel, 1003 Whipoorwill Dr., Clarks Summit, PA 18411-9671
Terry Murray, 2950 Autumn Dr., Eagle Mountain, UT 84043-3220
Clair Rogers, 13480 S 2200 W, Riverton, UT 84065
Neldon Adair, 2081 W 13180 S, Riverton UT 84065
Terry Cook, 885 S Oak Dr., Woodland Hills, UT 84653
Dick Stone, 7458 Derry Street, Harrisburg PA 17111
Gene Richards, 1256 Park Crest Cir., SLC, UT 84124

EXHIBIT
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4 PAGES

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631

TAKE PRIDE IN AMERICA

In Reply Refer to:
3800
(U-010)
UTU-075884

December 3, 2003

CERTIFIED MAIL #7002 3150 0004 1699 4339
CERTIFIED MAIL #7002 3150 0004 1699 4186
RETURN RECEIPT REQUESTED

DECISION

| | | |
|---|---|---|
| LARRY MCCURDY<br>PRESIDENT<br>UNIQUE MINERALS INC<br>18458 W. CARTER CIR<br>CEDAR VALLEY UT 84103<br><br>DICK STONE<br>7458 DEERY ST.<br>HARRISBURG PA 17111 | : | 43 CFR 3809.116(c)<br>DETERMINATION OF<br>OPERATOR'S LIABILITY<br>AND<br>43 CFR 3809.333<br>EXPIRATION OF NOTICE<br>AND REQUIREMENT TO<br>COMMENCE RECLAMATION |

Failure to Submit a Financial Guarantee

On January 21, 2003, this office received a request to extend notice UTU-075884, and a request to transfer the operation from Dick Stone to Unique Minerals Inc. There was no reclamation cost estimate included with the requests, so on February 20, 2003, Dick Stone was issued a decision requiring either concurrence with our reclamation cost estimate, or submission of a counter estimate. Mr. Stone failed to respond, so on May 15, 2003, Larry McCurdy was issued another decision requiring either concurrence with our reclamation cost estimate, or submission of a counter estimate. On June 16, 2003, Mr. Stone

FILE COPY

appealed the requirement for a reclamation cost estimate. On June 26, 2003, Mr. McCurdy withdrew the appeal, and promised to submit a financial guarantee within 60 days.

On July 9, 2003, the Utah State Office of the BLM sent a notice to Larry McCurdy allowing 60 days for Unique Minerals to submit a financial guarantee within 60 days. On September 9, 2003, Mr. McCurdy called this office to request another 15 days. The deadline to submit the financial guarantee was extended until October 27, 2003. On that day, Mr. McCurdy came into this office and explained that the financing was almost complete, but that Unique Minerals had not received the funds yet, and would need another 30 days to submit the financial guarantee, so the deadline was extended to November 26, 2003. On November 26, 2003, Dick Stone called this office and explained that the financing had fallen through, and that the financial guarantee would not be submitted within the foreseeable future.

§ 3809.333 requires that, in order to extend a notice that existed as of January 20, 2001, an operator must comply with § 3809.503 and provide a financial guarantee for reclamation. § 3809.116 (c)(2) states that "Transfer of a mining claim or operation does not relieve a mining claimant's or operator's responsibility under this subpart for obligations that accrued or conditions that were created while the mining claimant or operator was responsible for operations conducted on that mining claim or in the project area until…BLM accepts an adequate replacement financial guarantee adequate to cover such previously accrued obligations and the transferee's new obligations."

Since Unique Minerals failed to submit the financial guarantee, the notice has expired as of November 26, 2003, and Dick Stone is the operator with the primary reclamation liability. § 3809.335 states that upon expiration of a notice, the operator must promptly commence reclamation. Since the notice was extended, there is no option of deferring reclamation by submitting a new notice or a Plan of Operations. Mr. Stone must begin reclamation within 30 days of receipt of this decision, and complete it within the earliest feasible time. If he fails to do so, we will inform all the claimants for the site during the time the liability accrued of their obligation to conduct the reclamation. If they fail to take appropriate action, we will take enforcement action under §3809.601 against all liable parties.

If you do not agree with, and are adversely affected by, this order, you have the right to request review by the Utah State Director (SD) of the Bureau of Land Management in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement, must be filed in writing within 30 days after your receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA 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 within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939. January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), 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 the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) 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:

**(1)** The relative harm to the parties if the stay is granted or denied,

**(2)** The likelihood of the appellant's success on the merits,

**(3)** The likelihood of immediate and irreparable harm if the stay is not granted, and

**(4)** Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808 this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.

Lynn T Ferguson
ACTING

cc: Tom Munson, UDOGM (S/027/074)
Jason Stone, 7458 Deery St., Harrisburg, PA 17111
Barry Kandel, 1003 Whipoorwill Dr., Clarks Summit, PA 18411-9671
Terry Murray, 2950 Autumn Dr., Eagle Mountain, UT 84043- 3220
Clair Rogers, 13480 S 2200 W, Riverton, UT 84065
Neldon Adair, 2081 W 13180 S, Riverton UT 84065
Terry Cook, 885 S Oak Dr., Woodland Hills, UT 84653
Gene Richards, 1256 Park Crest Cir., SLC, UT 84124

SWysong:tf

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# United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631

TAKE PRIDE IN AMERICA

In Reply Refer to:
3800
(U-010)
UTU-075884

January 15, 2004

CERTIFIED MAIL #7002 3150 0004 1699 4445
RETURN RECEIPT REQUESTED

ORDER

| | | |
|---|---|---|
| DICK STONE<br>DBA<br>UNIQUE MINERALS<br>7458 DEERY ST.<br>HARRISBURG PA 17111 | :<br>:<br>:<br>:<br>: | 43 CFR 3809.601<br>NONCOMPLIANCE<br>ORDER |

ORDER TO COMMENCE RECLAMATION

On December 8, 2003 you received a decision letter notifying you that notice UTU 075884 had expired. That decision required that, within 30 days of receipt, you begin reclamation of the site. An inspection of the site performed on January 8, 2004 determined the required reclamation had not begun.

You are in noncompliance with:

- 43 CFR 3809.335 (2), which requires prompt, complete reclamation upon expiration of your notice;
- 43 CFR 3809.420 (b) (3) (i), which requires reclamation of disturbed areas at the earliest feasible time;
- 43 CFR 3809.605 (a), which prohibits causing any unnecessary or undue degradation;
- 43 CFR 3809.605 (e), which prohibits failing to meet the requirements of § 3809 when your notice expires;
- 43 CFR 3809.605 (f), which prohibits failure to comply with applicable performance standards in § 3809.420; and
- 43 CFR 3809.605 (h), which prohibits abandoning any operation prior to complying with any reclamation required by § 3809.

In order to correct the noncompliance you must:

- Immediately cease all operations except reclamation;

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- Begin reclamation of the site within 30 days of your receipt of this order; and
- Complete reclamation in accordance with your notice and the performance standards outlined in §3809.420 (3) at the earliest feasible time.

According to 43 CFR 3809.116 (a), Mining claimants and operators (if other than mining claimant) are liable for obligations under the § 3809 regulations that accrue while they hold their interests. Therefore, failure to comply with this order may result in our contracting out the reclamation to a third party, then billing all liable parties for all associated costs to the government. Those parties are:

- You (Dick Stone)
- Jason Stone
- Barry Kandel
- Terry Murray
- Clair Rogers
- Neldon Adair
- Terry Cook
- Larry McCurdy

If the bill is not paid in a timely fashion, it will be turned over to the United States Attorney's office to take action to collect the monies.

Failure to comply with this order may also result in:

- Civil action in the United States District court enforcing the order and collecting damages resulting from unlawful acts; and
- Criminal penalties established for violation of the § 3809 regulations, including, for individuals, a fine up to $100,000 or imprisonment up to 12 months, or both.

If you do not agree with, and are adversely affected by, this order, you have the right to request review by the Utah State Director (SD) of the Bureau of Land Management in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement, must be filed in writing within 30 days after your receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA 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 within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939. January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), 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 the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) 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:

**(1)** The relative harm to the parties if the stay is granted or denied,

**(2)** The likelihood of the appellant's success on the merits,

**(3)** The likelihood of immediate and irreparable harm if the stay is not granted, and

**(4)** Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808 this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.

Glenn A. Mulcahy

Enclosure
Form 1842-1

cc: Tom Munson, UDOGM (S/027/074)
Gene Richards, 1256 Park Crest Cir., SLC, UT 84124

cc (certified mail):
Jason Stone, 7458 Deery St., Harrisburg, PA 17111
#7002 3150 0004 1699 4490
Barry Kandel, 1003 Whipoorwill Dr., Clarks Summit, PA 18411-9671
#7002 3150 0004 1699 4506
Terry Murray, 2950 Autumn Dr., Eagle Mountain, UT 84043-3220
#7002 3150 0004 1699 4513
Clair Rogers, 13480 S 2200 W, Riverton, UT 84065
#7002 3150 0004 1699 4520

Neldon Adair, 2081 W 13180 S, Riverton UT 84065
#7002 3150 0004 1699 4537
Terry Cook, 885 S Oak Dr., Woodland Hills, UT 84653
#7002 3150 0004 1699 4544
Larry McCurdy, 18458 W. Carter Cir., Cedar Valley UT 84103
#7002 3150 0004 1699 4568

SWysong:tf

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3 Pages

# Unique Minerals Inc.

Description of business and potential page -1-

UNIQUE MINERALS INC was formed in September of 1998. The purpose is to mine and process a very unique Cambrian slate deposit of 3,840 acres located in the Utah south west desert.

Although slate occurs in California, Pennsylvania, Vermont, and Virginia, the chemical makeup of the slates of the other states is vastly different. The major element in the other slates is silicon, which is the same element as the Sahara desert, or on most beaches of the world. Silicon is sand. Sand does not bond to oils and road tars used for asphalt.

Emulsion manufacturers are using ground slate from California. California slate is 2/3 sand. The manufacturers mix the slate in their emulsion mixes to make asphalt sealers for driveways, parking lots, and highways. Poor bonding from the sand content, causes what asphalt people call "stripping" which simply means that the oils pull away from the sand, and the asphalt breaks down and shortens the life of the highway, driveway, or parking lot.

In the slate of the Utah west desert, there is a high content of Kaolinite, and calcium carbonate, (lime) which absorbs and bonds to the oils and tars, giving the highways, parking lots, and driveways a 60% longer life. Kaolinite and lime are used in cement and concrete, and is the glue that bonds concrete. Since sand does not bond, it allows water to penetrates the ordinary asphalt. Freezing aggravates the problem as the water expands by 11% on freezing, which speeds up the stripping and breakdown of the asphalt. Since the Kaolinite and Calcium (lime) take the place of most of the sand, it produces a water tight, and smoother finish.

Manufacturers have expressed intense interest in our product. As of this writing we have orders for over 35,000 tons of product which will yield $1,500,000.00 of gross income over the next 5 months, with a net profit of $480,000.00. We have only scratched the surface of our marketing.

# Unique Minerals Inc.

Description of business and potential-2-

We stopped marketing until we can produce the amount of demand that is facing us. Unique Minerals Inc is also formulating concrete products that will not only give 60% longer life to public bridges and buildings and other concrete structures, but also give 18% greater strength to bridges. Imagine the savings and safety to the public when Unique Mineral slate is added to asphalt and concrete products.

The Utah deposits are unlike any other deposit found in the world. There is enough of this product to last this country for centuries. We have interested the market by supplying samples to manufacturers, who test the samples for their own satisfaction. So far the response has been very positive.

There is a wide open market for our slate, and a spectacular profit making venture that sees no end. The bottom line is we have a huge exhaustless deposit of a unique material, and a bottomless market.

The Utah highway department, Salt Lake City Corporation, Millard County, and several of the countries largest construction have expressed interest in the product. Our concern now is to be properly funded and equipped to meet the demand.

## EXPLANATION OF BUSINESS OPERATION

Unique Minerals, to properly operate this business needs three crushing machines that will produce various consistencies of ground slate. Specifications requested so far at this time are 200 minus, 80 minus, 60 minus, 20 minus and 1/4 minus, and types 1, 2, and 3 materials. The three machines will produce all these stated specifications at a daily maximum production of 960 tons per day operating on a 24 hour basis. Also needed are 2, 13 ton dump trucks, a d-8 dozer with front end loader, two rubber tire large front end loaders, a truck scale, a 20 by 60 trailer for office, and employee use, 2 3/4 ton pickups, a small utility van, a 300 KW generator, an arc

# Unique Minerals Inc.



welder, a jack hammer, a light pole and night light generator, 2,000 industrial bags that hold 2,000 to 4,000 pounds of material, 2 silos, 2 bulk loader trucks, two "pup" trailers, a low boy trailer, and a phone-fax-plain bond copier. This is the basic equipment needed to properly launch the business.

The average sales price per ton is $40.00, or a daily gross earning potential of $38,400.00 per day, or an annual gross income of $9,600,000.00 per year, operating 5 days per week minus 11 holidays. The annual projected overhead is $1,104,000.00 leaving a potential net, before tax profit of $8,496,000.00.

The mill will need 6 full time men to fulfill this quantity of material. Two partners are working on formulas for pre cast slate table tops, as well as bridge mix, and formula for pre cast dome homes. There are also vast markets for ground slate for fertilizing soils.

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## MOTION NUMBER (2)

Filed June 4, 2000 under docket number given to Appellant by the Interior Board of Land Appeals Docket 2000-249 Appeal from a Decision of Mr. Rex Rowley, Field Manager Fillmore BLM Office. His letter dated April 13, 2000
Regarding Illegal Rock Sale by the BLM

Appellant appealed this contention by Mr. Rex Rowley in part:

**"Enclosed is the environmental assessment for a 1000 ton rock sale at the Spectrum Quarry, T 17 S. R. 13 W. Section 23 This action may affect one of your company's mining claims, the Cambrillic Placer, UMC 33636. It is my decision to authorize this proposal."**

**This Motion Comprised of:**

23 Pages Explaining the Appeal

05 Exhibits substantiating the Appeal

05 Labels stating each month January through May 2000
that substantiate this appeal.

Separate Labels stating each year 1995, 1996, 1997
1998, 1999. This is BLM Correspondence that supports
this appeal.

**In this Motion Appellant petitioned the Court to:**

1. Irrevocably cancel the Rock Sale of April 4, 2000 and the further bar any other rock sales on the claims of Appellant.

2. Issue an Order that Appellant is the valid claim holder of the Spectrum Quarry Claims pursuant to 43 CFR 3809.

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EXHIBIT
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6 pages

.L.C.

April 14, 2003

United States
Department of the Interior
Bureau of Land Management
Office of the Utah State Director
324 South State Street
Salt Lake City, Utah 84111

RE: Notice to begin Operations
Under approved Plan of Operations
43 CFR 3809
Dated May 12, 2000

Cambrillic Natural Stone L.L.C. will begin mining the week of April 14, 2003. CNS is still actively involved in the litigation against the BLM, and will continue to purse the many matters before the Interior Board of Land Appeals.

Attached hereto and made a part hereof, are copies of the approved Plan of Operations, the recent survey, and the last letter to the IBLA from Appellants dated February 19, 2002

Sincerely,

Jerome Gatto

RECEIVED
APR 14 2003
Bureau of
Land Management

230 E. Broadway • Suite 1205 • Salt Lake City, Utah 84111 • 801-596-2600 • fax 801-994-4198 • jerrygatto@attbi.com

LATHOS INDUSTRIES L.L.C.

RECEIVED
APR 29 2003
Bureau of
Land Management

April 29, 2003

United States Department of Interior
Bureau of Land Management
Fillmore Field Office
35 East 500 North
Fillmore, Utah
Via Office of the State Director
324 South State Street
Salt Lake City, Utah 84111

Re: Filing of Two (2) Mining
Plans for Cambrillic Natural Stone L.L.C.

Ms. Wysong,

Attached hereto find the two mining plans we discussed when we visited you on April 16, 2003 in your office. You tendered a copy to us of the 1991 Baron Trading Plan which we have somewhat revised. The other plan is the one we filed with you on April 14, 2003.

We wish to begin operations in both areas simultaneously. It would seem to me that you would not need much time for tacit approval considering the fact that both plans at one time or another were

230 E. Broadway • Suite 1205 • Salt Lake City, Utah 84111 • 801-596-2600 • fax 801-994-4198 • jerrygatto@attbi.com

approved. We will supply the necessary guarantees and escrow agreement upon request.

However, be advised that we effectuate the guarantee and escrow agreeement under protest, in order to hold and protect our current appeal with the Interior Board of Land Appeals.

The letters from Mr. Rowley, dated April 16, and April 22, 2003 are duly noted. Again, because of our appeal we cannot provide detailed answers concerning the letters, for they in effect may be construed as an addition to the record, which is not allowed. It is mentioned that Mr. Rowley may discuss the situation with the Solicitor.

However, you realize that the Solicitor cannot discuss this matter with the Court without Consolidated Appellant. Ex Parte discussions are frowned upon. Additionally note that the reason there was no stay concerning the guarantees and escrow, is not because the Court denied the stay. Simply stated we cannot petition the Court on any matter. Read my letter to the Court as part of this filing dated February 19, 2002.

We have no concerns or interest concerning the plans of Levin Stone or Unique Minerals Inc.

Sincerely,

Jerome C. Gatto
Member-Manager

RECEIVED
APR 29 2003
Bureau of
Land Management

Form MR-SMO
(Revised 7/98)

This Section for DOGM Use:
Assigned DOGM File No. S __/__/
DOGM Lead. _____

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
(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.

"Small Mining Operations" means mining operations which disturb five or less surface acres at any given time.

*********

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

1. Name Of Mine: CAMBRILLIC MINE

2 Name of Operator/Applicant: CAMBRILLIC NATURAL STONE, L.C.
Company (X) Corporation ( ) Partnership ( ) Individual ( )

3. Permanent Address: 1730 S 1100 E
City: SALT LAKE CITY State: UT Zip Code: 84105
Telephone Number: (801) 983-7002

4. Ownership of Land: Public Domain (BLM)

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

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

RECEIVED
APR 14 2003
Bureau of
Land Management

Form MR-SMO
(Revised 7/98)



This Section for DOGM Use:
Assigned DOGM File No. S __/__/
DOGM Lead: _____

5. **Ownership of Minerals**

Private (Fee)( ) Public Domain (BLM) ( X ) National Forest (USFS) ( )
State Trust Land/School Sections State Sovereign Lands
Other (please describe): **Mineral rights on two placer claims,**
**Billy Boy III UMC353658 & Billy Boy IV UMC354029**
Name **Cambrillic Natural Stone L.C.** Address **1730S 1100E, SLC, UT 84105**
Name _____ Address _____
Name _____ Address _____
Name _____ Address _____

Utah Mining Claim Number(s): _____

Utah State Lease Number(s): _____

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

If no, why not? **BLM is notified with this notice**

*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.*

7. Does the operator have legal right to enter and conduct mining operations on the land covered by this notice? Yes __X__ No _____

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

1. Project Location (legal description):
County(ies): **Millard County, Utah**
**SE1/4**, of **SW1/4**, of ____ 1/4: Section: **14** Township: **17S** Range: **13W**
___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 **Marjum Pass Quadrangle 7.5 Minute Seares**

2. A topographic base map showing the location of the proposed small mining operation must be submitted with this notice. A USGS 7.5 minute series map is preferred. The areas to be disturbed should be plotted in sufficient detail so that they can be located on the ground. It is recommended that the operator also plot and label any preexisting disturbances in the immediate vicinity that he is not responsible for. **( See attaached photo)**

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Land Management

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 ripping, discing, or harrowing.

13. Reseed disturbed areas with adaptable species. (The Division recommends seeding 20 lbs./acre of native and introduced 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 if broadcast seeded, harrow or rake the seed 1/4-1/2 inch into the soil - fall is the preferred time to seed.

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

Yes ( ) No (X)

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, should be identified below and justification given for the variance requests(s).

| Item Number | Variance Request Justification |
|---|---|
| | |
| | |
| | |
| | |

## VI. PERMIT FEE [Mined Land Reclamation Act 40-8-7(i)]

The Utah Mined Land Reclamation Act of 1975 [40-8-7(i)] provides the authority for fee implementation which was approved by the Utah Legislature at its 1998 session. Commencing July 1, 1998, the fees are assessed to new and existing notices of intention, and annually thereafter.

***Small Mining Notices require a $100.00 fee which must accompany this application.***

## VII. SIGNATURE REQUIREMENT

I hereby commit to conduct mining operations and to reclaim the aforementioned small mine as required by the Utah Mined Land Reclamation Act (40-8) and the rules as specified by the Board of Oil, Gas and Mining.

Signature of Operator/Applicant: _____

Name (typed or printed): William J. Pappas

Title/Position (if applicable): President, Cambrillis Natural Stone, L.C.

Date: _____

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Land Management

EXHIBIT
U
17 PAGES

**MOTION NUMBER (1)**

Filed July 29, 1999 with Ms. Sally Wisely Utah State Director, The Bureau of Land Management.

Appeal from a Decision of Mr. Rex Rowley Field Manager Fillmore BLM Office
concerning his issuance of a letter
dated June 10, 1999
Wherein he issued a Record of Noncompliance against
William J. Pappas now a Member of Cambrilic Natural Stone L.L.C.

**This Motion is Comprised of:**

09 Pages of Explaining the Appeal.

02 Pages listing the Exhibits of the Appeal.

26 Exhibits that substantiates this Appeal.

## MOTION NUMBER (2)

Filed June 4, 2000 under docket number given to Appellant by the Interior Board of Land Appeals Docket 2000-249 Appeal from a Decision of Mr. Rex Rowley, Field Manager Fillmore BLM Office. His letter dated April 13, 2000
Regarding Illegal Rock Sale by the BLM

Appellant appealed this contention by Mr. Rex Rowley in part:

**"Enclosed is the environmental assessment for a 1000 ton rock sale at the Spectrum Quarry, T 17 S. R. 13 W. Section 23 This action may affect one of your company's mining claims, the Cambrillic Placer, UMC 33636. It is my decision to authorize this proposal."**

**This Motion Comprised of:**

23 Pages Explaining the Appeal

05 Exhibits substantiating the Appeal

05 Labels stating each month January through May 2000
that substantiate this appeal.

Separate Labels stating each year 1995, 1996, 1997
1998, 1999. This is BLM Correspondence that supports
this appeal.

**In this Motion Appellant petitioned the Court to:**

1. Irrevocably cancel the Rock Sale of April 4, 2000 and the further bar any other rock sales on the claims of Appellant.

2. Issue an Order that Appellant is the valid claim holder of the Spectrum Quarry Claims pursuant to 43 CFR 3809.

## MOTION NUMBER (3)

Filed August 3, 2000, with the IBLA
In Rebuttal to United States Solicitor Motion:

Motion to Deny Respondents Request to Consolidate Appeals
and to Deny Respondents Request to Dismiss Appeals of Appellant.

### This Motion Comprised of:

16 Pages of Appeal Exhibits A through I-11 that substantiates
Appeal and **detailed separators that included the complete expert testimony that the stone is, without any doubt, UNCOMMON.**

**1. Pearson**

**2. Middleton**

**3. Whelan**

**4. Clark**

**5. Sales**

**6. Italian Marble**

### In this Motion, Appellant petitioned the Court to:

1. Deny the Motion of Respondent, requesting consolidation and dismissal.

2. Or Allow Appellant to depose persons cited in Exhibit C of this Appeal
and this Rebuttal, in order to preserve and detail the truth, prior to the ruling of this Court.

3. Or Grant the Appeal of Appellant in order to allow Appellant to mine his claims under the provisions of CFR 43 3809 that has been the precedent concerning the Spectrum Quarry since 1958.

## MOTION NUMBER 4

Filed August 29, 2000 under **2000- 355 Docket Number** afforded Appellant by the Interior Board of Land Appeals:

Appeal from a Decision of a Rex Rowley letter dated July 7, 2000
Regarding Inapplicable restrictions for the mining plan of Appellant
and again a request by Respondent for Appellant to rescind the Appeal of July 29, 1999.

**This Motion Comprised of:**

13 Pages of Appeal and the Following titled separators that include BLM Correspondence to Appellant and is **addressed in this appeal** that substantiates this Appeal.

**Namely:**

| | | | | |
|---|---|---|---|---|
| 1. | October 8, | 1996 2. | December 27, | 1996. |
| 3. | April 2, | 1997 4. | August 26, | 1997 |
| 5. | May 28, | 1997.6 | September 26, | 1997. |
| 7. | November 8, | 1997.8. | December 2, | 1997. |
| 9. | January 8, | 1998.10. | February 11, | 1998. |
| 11. | March 6, | 1998 12. | April 16, | 1998. |
| 13. | May 13, | 1999.14. | September 1, | 1998. |
| 15. | December 17, | 1998.16. | May 13, | 1999. |

**Exhibit A Exhibit B Exhibit C. EXHIBIT D**

**In this Motion, Appellant petitioned the Court to:**

1. Order Respondent to declare in writing that Appellant is in legal possession of the Spectrum Quarry Claims, as the mining claimant.

2. Find the stone of the Spectrum Quarry is uncommon based on the facts previously presented in Exhibit D of this appeal.

3. The appellant will abide by any reasonable Reclamation Program, established by this Court, and implemented by Respondent.

4. That Appellant will fully cooperate with Respondent, in insuring this Court that all Department of Interior, Bureau of Land Management , regulations applicable to Appellant as Mining Claimant will be upheld.

**MOTION NUMBER 5**

**FILED APRIL 23, 2001, 2001-168 DOCKET NUMBER AFFORDED BY THE INTERIOR BOARD OF LAND APPEALS**
**STATEMENT OF REASONS IN SUPPORT OF APPELLANT'S APPEAL OF UTAH STATE**
**DIRECTORS' LETTER OF FEBRUARY 14, 2001.**

**This Motion Comprised of:**

**16 PAGES**

**08 SECTIONS OF EXHIBITS**

The letter of February 14, 2001 under the signature of Ms. Sally Wisely
Utah State Director, Bureau of Land Management is Exhibit Number 2 of this Motion.

**In this Motion, Appellant petitioned the Court to:**

1. Order the Record of Noncompliance of Mr. Pappas be permanently removed.

2. Allow Appellant to mine on the claims of Appellant, the Spectrum Quarry, with the necessary Reclamation Bond, but without any payments to the BLM for product belonging to Appellant.

3. Order the stone, based on the evidence before this Court, is uncommon and all the combined claims of appellant are locatable.

## MOTION NUMBER 6

Filed September 18, 2000 Docket Number 2000-355. This was a rebuttal and titled: Motion to Deny Bureau of Land Management Motion for Remand of Appellants' Appeal to the Utah State Director.

**This Motion Comprised of:**

2 pages.

## MOTION NUMBER 7

Filed September 18, 2000. This Motion is titled: Motion objecting to the Court Order of August 31, 2000, Granting Intervention to Levin Stone Inc.

This is an objection addressed to the Court wherein the Court allowed Levin Stone Inc., by Order of the Court to intervene in these proceedings. Levin Stone Inc., was the sole recipient of the rock, illegally allowed by the Bureau of Land Management.

**This Motion Comprised of:**

6 Pages and Exhibits A through D.

## MOTION NUMBER 8

Filed September 21, 2000. This Motion is titled: Motion requesting clarification from the Court Order regarding Cambrillic Production of SOR'S.

This motion asked the Court to clarify Page 9, paragraph 3 of the Order of August 31, 2000, in part "Cambrillic will file its SOR within 45 days of receipt of this Order. The reason for this Motion is that Consolidated Appellants, **in previous motions, detailed the proof of the uncommon aspect of the stone.**

**This Motion Comprised of:**

5 Pages.

## MOTION NUMBER 8 A.

Filed September 20, and September 22, 2000. Part I and Part II respectively.
**All Filings by Certified Mail to the Court and all Adverse Parties. All parties received Video, and Binders.**

These Motions involve the Compliance by Appellant of the Court Order of August 29, 2000, wherein the Court under the ordered production schedule asked for the SOR'S of Appellant.

Includes: Video of the Quarry Devastation by Levin Stone Inc.,

Binders containing all professional Opinions that Stone is Uncommon.

## MOTION NUMBER 9

Filed September 22, 2000. This Motion is titled: Second Request for Motion to Depose Parties Incident in this Matter. This is the **Second Request** by Appellant to ask to depose certain parties in order to preserve the truth. **In Motion Number 2, part of that Motion,** Appellant asked the Court to depose these parties, **Exhibit B of that Motion.**

**This Motion Comprised of:**

2 Pages Exhibits A and B

## MOTION NUMBER 10

Filed October 2, 2000. This Motion is titled: Rebuttal to Levin Stone Inc. Letter of September 18, 2000. Levin Stone sent a letter to the Court.

This letter is a plethora of lies, and misrepresentations perpetrated on the Court by Levin Stone Inc.,

**This Motion is Comprised of:**

07 Pages, No Exhibits

## MOTION NUMBER 11

Filed October 2, 2000. This Motion is titled: Motion for Reconsideration of the Court Decision to remand 2000-355 to the State Director.

**This Motion Comprised of:**

07 Pages, No Exhibits

## MOTION NUMBER 12

Filed December 18, 2000. This Motion is titled:

Motion for Entry of Default and Judgement.
**Based on the evidence, Appellant requests monetary judgements against the employees of the Fillmore BLM Office, the BLM Office of the State Director, and Levin Stone Inc.,**

**Additionally, Appellant requests sanctions against the Office of the Solicitor.**

**This Motion is comprised of:**

12 Pages.

Exhibits A through H.

## MOTION NUMBER 13

Filed February 16,2001. This Motion is titled: Objection to Motion of Respondent to dismiss for lack of Jurisdiction.

This is a rebuttal of Motion filed by the BLM titled:
"Motion to dismiss for Lack of Jurisdiction."
This Motion by Respondent comprised 2 pages.

**This Motion is comprised of:**

05 Pages, Exhibits A and B.

## MOTION NUMBER 14

Filed July 6, 2001. This Motion is titled:

Motion to Deny Respondents Answer to the Bureau of the Bureau of Land Management to Appellants' Statement of Reasons and to vacate the Letter of April 18, 2001 From Robert A. Bennett, Associate Director of the BLM to Appellant Regarding 3809 N UT 070560-02 (UT-935) Docket 168.

This Motion of Appellant is in response to the Respondents' Motion: Answer of the Bureau of Land Management to Appellants' Statement of Reasons, dated May 24, 2001.

Appellant on Pages 10,and 11 of this Motion, petitions the Court with petitions: A,B,C,D,E, F, and G.

**This Motion Comprised of:**

11 Pages, Exhibits A Through G.

## MOTION NUMBER 15

Filed September 4, 2001, **With Ms. Sally Wisely, Utah BLM State Director, and not with the Interior Board of Land Appeals.**

This is an appeal of two Decisions concerning Mining Plans for Co-Appellant Unique Minerals. These decisions of August 14, 2001, and August 24, 2001, concerned Mining Plans for Unique Minerals Inc.

**This Motion Comprised of:**

2 Pages and Exhibits A and B

## MOTION NUMBER 16

Filed October 12, 2001. This Motion is titled: Appellant Response to Utah BLM Fillmore Field Manager Rex Rowleys' Letter of August 20, 2001.

This Motion is an objection to the letter of Mr.Rowley, requesting **again the SOR'S of Appellant, and therefore requesting from the Court a new Docket Number, namely 2000-361.**

**This Motion is Comprised of:**

6 Pages and 07 Attachments:

## MOTION NUMBER 17

Appealing letter of Rex Rowley dated October 23, 2001 titled: Decision CFR 3809 Failure to Reclaim and Failure to conduct Operations in accordance with Filed Notice.

Will File Notice of Appeal on November 15, 2001

Then the complete Appeal will be filed before December 7, 2001

EXHIBIT
tabbies
V
2 PAGES

The Salt Lake Tribune

THURSDAY October 23, 2003

# BLM chief wants more accountability from her managers

**By Scott Sonner**
**The Associated Press**

Kathleen Clarke

RENO, Nev. -- The head of the U.S. Bureau of Land Management says she's demanding more accountability of her field managers to try to rein in an agency that lacked discipline under the Clinton administration.

In criticizing "freelancing" bureaucrats who she charges pursued "personal interests" and agendas under President Clinton, BLM Director Kathleen Clarke told an oil and gas industry group that she's initiating "quality assurance reviews" of field offices to ensure uniform enforcement of regulations.

Clarke apologized to industry leaders for "unacceptable" delays in approving drilling permits on federal land in the West and pledged to send out a "team to look at some of our more problematic field offices."

"I'm dealing with an agency that I think lost some discipline, lost some accountability, did a lot of freelancing," Clarke said in a speech to the Interstate Oil and Gas Compact Commission at its annual meeting this week in Reno.

"Individual priorities were pursued. Individual agendas maybe were allowed to take hold and personal interpretation of how things should be done became an issue," she said Monday.

The BLM coordinates oil and gas mining, timber harvesting, cattle grazing and conservation on 261 million acres of federal land, primarily in the West.

Clarke, former director of the Utah Department of Natural Resources, was appointed by President Bush in January 2002.

She spoke to a group of about 20.

Her comments came in response to an industry report that suggested natural gas production in the Intermountain West would increase significantly if bureaucratic delays were eliminated.

The report by IHS Energy said there was a backlog of more than 1,700 federal applications for permits to drill in four of the region's basins under the jurisdiction of BLM field offices in Buffalo, Wyo.; Pinedale, Wyo., Farmington, N.M., and Vernal, Utah.

The study said it takes BLM an average of 175 days to process a permit that is supposed to be issued within 45 days.

"I certainly appreciate your frustration," Clarke said. "The 175 days is absolutely not acceptable and we are working on that."

"During the last administration, I think there was a sense that the most important things that were happening were happening in Washington and often it was [ex-Interior Secretary] Bruce Babbitt's office calling the shots," she said.

"He had some priorities that didn't have much to do with oil and gas and mining. He was attending to other

issues "Clarke said.

"I am discovering there is great disparity between the offices in terms of how they are applying rules and regulations. . . . and we are working to reinstitute some management discipline."

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EXHIBIT
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4 Pages

# United States Department of the Interior

**BUREAU OF LAND MANAGEMENT**
**FILLMORE FIELD OFFICE**
**35 East 500 North**
**Fillmore, UT 84631**

In Reply Refer to:
3800
(U-010)
UTU-078275

July 8, 2003

CERTIFIED MAIL #7002 3150 0004 1702 2253
RETURN RECEIPT REQUESTED

WILLIAM PAPPAS
MEMBER/MANAGER
CAMBRILLIC NATURAL STONE
230 E BROADWAY SUITE 1205
SLC UT 84111

Dear Mr. Pappas:

We are in receipt of Jerry Gatto's July 3, 2003 letter. In that letter, Mr. Gatto expressed two concerns we will address:

1. Mr. Gatto indicated that: "You did not comply with the order of the IBLA, and now cannot in any manner deliver a so-called Mineral Report."

   The Order in question was issued on August 29, 2000 in reference to IBLA docket numbers 2000-249 and 2000-251. It is correct that the mineral report may not be submitted to the Board for consideration in those appeals, since the Board closed the briefing for 2000-249 and 2000-251 on August 7, 2001 (copy of Order enclosed).

   Please note that 43 CFR § 4.414 states: "...Failure to answer will not result in a default…" Therefore, the fact that the BLM may not have complied with the production schedule outlined in the August 29, 2000 Order does not result in an automatic outcome in your (the appellants) favor. Nor does it mean that the referenced mineral report may not be used in any subsequent

decisions that may be appealed or brought before the Board. The August 29, 2000 Order applies only to IBLA docket numbers 2000-249 and 2000-251.

2. You requested a copy of "the comment vehicle" we will use to elicit comments on your Plan. We rely mainly on our Field Office internet webpage at: http://www.ut.blm.gov/fillmore_fo/ENBB/Ffo-enbb.html to inform the public of proposed actions. We may also contact affected parties through direct mailings.

   By publishing our receipt of your Plan on the Electronic Bulletin Board, we are complying with 43 CFR § 3809.411(c): "Following receipt of your complete plan and before BLM acts on it, we will publish a notice of the availability of the plan in either a local newspaper of general circulation or a NEPA document and will accept public comment for at least 30 calendar days on your plan of operations."

As soon as we receive your taxpayer ID number, and your complete occupancy proposal, the 30 day comment period will begin. If you have any questions, please feel free to contact Sheri Wysong at (435) 743-3124, or Jerry Mansfield at (435) 743-3125.

Sincerely,

Rex Rowley

Rex Rowley
Field Office Manager

Enclosure:
August 7, 2001 IBLA Order

Cambrilic
Natural
Stone, LLC

LATHOS INDUSTRIES L.L.C.

July 26, 2003

United States Department of Interior
Bureau of Land Management
Fillmore Field Office
35 East 500 North
Fillmore, Utah 84631

Certified Mail Article 7099 3400 0015 3414 0118
Dear Mr. Rowley,

I am responding to your letter to Mr. Pappas dated July 8, 2003.

Number 1 of your response, is incorrect in every respect. For some reason you attempt to quote almost the last sentence of CFR 4.414 to sustain an argument that is without merit and lacking in any kind of reason. I would recommend you discuss this answer you provided with your Solicitor.

This time read CFR 4.414 from the beginning. You mention nothing about my observation stating the beginning thoughts of the IBLA in the order I sent you with the letter, reflecting their positive views that the stone is uncommon, as opposed to Mrs. Wysong's statement that this did not exist in the order.

230 E. Broadway • Suite 1205 • Salt Lake City, Utah 84111 • 801-596-2600 • fax 801-994-4198 • jerrygatto@attbi.com

For you to brazenly attempt to file another mineral report as part of a motion to the Interior Board of Land Appeals would be ludicrous and would fail. Your time has run out waving 4 and 5 year preparatory mineral reports in the face of the IBLA and the United States District Court for the District of Utah. The stone is uncommon, get use to it.

Number 2. Thank you for the information in this part of your letter. I noticed your sarcastic parenthesis enclosing comment vehicle. If you check with your solicitor you will find that is the correct terminology. Additionally in this section you state: "We may also contact affected parties though direct mailings." I have no conceptual idea as to what you mean by "affected" parties, but it would be wise to forward us a copy of the letters you send to these "affected parties."

You are in possession of our taxpayer ID number. Enclosed find our Complete Occupancy Proposal.

If you have any questions concerning the Occupancy Proposal please contact Mr. Pappas 801-557-2140.

Sincerely,

Jerome Gatto

Enclosure:

Occupancy Proposal

EXHIBIT
X
3 Pages

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, UT 84631
http://cnbb.blm.interwebdesign.com

IN REPLY REFER TO:
3800
(UT-010)
UMC-353712

December 17, 1998

CERTIFIED MAIL # 381 114 119
RETURN RECEIPT REQUESTED

JEROME GATTO
230 E BROADWAY
SALT LAKE CITY UT 84111

Dear Mr. Gatto:

The validity examination for the JERRY G #1, JERRY G #2 and JERRY G #3 (UMC 353712 through UMC-353714) placer mining claims located in Sec. 23, T. 17 S., R. 13 W., SLBM is continuing. I need to obtain some information from you about your claims and proposed operation.

On March 12, 1998, the day of the initial field exam for your claims, Mr. Tom Clark and Dr. James Whelen were present and asserted that they were your representatives. Were they in fact your representatives?

What product or products do you propose to produce from your claims?

What equipment do you plan to use in your proposed operation?

What are your anticipated production costs for your product or products?

What price to you anticipate receiving for the product or products produced from your claims?

Any information you submit may be held as Confidential-Proprietary Data if you so request and mark each piece of data accordingly. Any information that is deemed to be Confidential-Proprietary Data and that is so marked would not be available to the public, and would be for government use only.

Thank you for any assistance you may offer.

If you have any questions, please contact me at 435-743-3126.

Sincerely,

Ron Teseneer
Geologist

# THE GEOLOGY OF THE SPECTRUM QUARRY, HOUSE MOUNTAINS MILLARD COUNTY, UTAH

Prepared for

The Merd Corporation

By

Dr. James A. Whelan

July 1, 1978

James A. Whelan

James A. Whelan

Registered Professional Engineer

State of Utah

License 2880

COPY

REGISTERED PROFESSIONAL ENGINEER
NO. 2880
JAMES A. WHELAN
STATE OF UTAH

# GEOGRAPHY

## Introduction

This report was commissioned by the MERD Corporation - (MERCO) to provide scientific, technical, and base line data for use in the development of their Spectrum claims, located on Antelope Mountain, House Range, Western Millard County, Utah.

A colorful and durable limestone used as a decorative and building stone is the product of the quarry.

Conferences were held with Jerome C. Gatto, Executive Vice President of MERD and Clyde L. Cheney, Jr., consultant to MERD. On May 1, 1978, the author, Mr. Gatto, Mr. Cheney, and Mr. Rod Cushing visited the Property. There discussions were held with Mr. Dale Minyard and Mr. Robert Green, on site operators of the quarry.

On May 5, 1978, the writer and Ms. Susan Fischer visited the property for geologic mapping.

Throughout May, reference data were assembled. The report was written 18 July 1978.

COPY

EXHIBIT
Y
3 PAGES

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631

TAKE PRIDE IN AMERICA

In Reply Refer to:
UTU-078275
(UT-010)

March 16, 2003

INTERIOR BOARD OF LAND APPEALS :
801 N Quincy ST SUITE 300 : IBLA 2001-168
ARLINGTON VA 22203 :

RE: Case File UTU-078275

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On March 8, 2004, this office received an appeal on a decision related to case file UTU-078275. A previous decision related to that case file was appealed in 2001, and is docketed IBLA 2001-168. We are sending all the documents that have accumulated in the case file since the previous appeal.

We understand that the Board may be almost ready to release a decision on 2001-168, and we request that case file UTU-078275 be retained and combined with the enclosed documents for review during this more recent appeal.

(acting)

Enclosure:
Documents

cc: (certified mail):
Cambrillic Natural Stone, Jerry Gatto, 230 E Broadway, Suite 1210, SLC UT 84111 Certified Mail #7003 2260 0005 6848 5851
Unique Minerals Inc., 18458 Carter Circle, Cedar Valley, UT 84103 Certified Mail #7003 2260 0005 6848 5868
Levin Stone Inc., PO Box 95, Ash Fork, AZ 86320 Certified Mail #7003 2260 0005 6848 5875

February 19, 2002

Certified Mail Return Receipt Requested

Interior Board of Land Appeals
Office of Hearings and Appeals
U.S. Department of Interior
801 North Quincy Street, Suite 300
Arlington, VA. 22203

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APR 1 4 2003
Bureau of
Land Management

Consolidated Appellants, Agents for Cambrillic Natural Stone L.L.C. and Unique Minerals Inc. send this letter in order to gain information concerning the status of the appellants with this Court. This is not to be considered a motion, but rather a request for information due to the ruling of this Court of August 7, 2001, stating:

> **Two Docket Orders 249-251, and 168 stating " instant appeal has been thoroughly briefed, and accordingly in the absence of a motion and further order of this Board expressly granting leave to do so, no further submissions are expected or permitted in this appeal."**

Consolidated Appellants again provide this Court with 21 pages of their legal calendar, during which time, **since July of 1999,** Appellants have proven beyond a reasonable doubt and by the massive, detailed evidence, namely the preponderance of evidence that the stone is uncommon stone.

Respondents cannot be legally waiting for **another** so-called validity exam to be completed, and them submitted to this Court, for two reasons: 1. They defaulted on the production segment of the order of this Court dated August 29,2000, "Briefing and Production Schedule Established."

and 2. According to the rules of Federal Civil Procedure that must file a motion to this Court asking the Court to wait for the validity exam, which they did not do.

Additionally, the Office of the Utah State Director, ignores Consolidated Appellants on all matters. Notice Page 21 of the enclosed legal calendar. The was an appeal to the State Director and comprised 12 Pages and Exhibits A through K. This was filed November 21, 2001, **this is February 19, 2002.**

It must be noted that Consolidated Appellants are dedicated, and will not relinquish any part of their pleadings.

Respectfully Submitted,

_____

Jerome Gatto, Agent
For Cambrillic Natural Stone L.L.C.

_____

Richard Stone, Agent
For Unique Minerals Inc.

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APR 14 2003
Bureau of
Land Management

cc; United States Solicitor

Enclosure

FRIDAY
OCTOBER 11,
2002

# Report Is Critical of Swaps Between SITLA and BLM

■ Continued from C-1

can't get too excited that this is going to make a difference, but sooner or later you get enough data out there, somebody is going to force them to change."

**Defending the Exchange:** Despite evidence of impropriety, the House of Representatives last week passed the San Rafael Swell Exchange bill, sponsored by U.S. Rep. Chris Cannon, R-Utah, who downplayed the importance of the foundation's findings.

"This is an equal-value exchange, not an appraisal-based exchange. This type of exchange is deeply threatening to appraisers," he said. "What you have is people who want to do it their way."

The exchange is named for the 1 million-acre San Rafael Swell, where most of the state lands proposed in the trade are located and where Utah Gov. Mike Leavitt hopes to create a national monument. Cannon's bill would deed to the federal government 108,000 acres of state lands in exchange for 135,000 acres of federal lands.

Cannon said the foundation report's impact on the bill's fate would be minimal. But he won't handicap the legislation's chances this year because the Senate "is so tied up in their shorts," he said, "there is no way of guessing whether they'll be able to do anything."

Senators may be more leery than House members, who voted without the benefit of the foundation's findings. Those include:

Recommendations "that all claims of misconduct by BLM staff . . . be referred to the [Department of Justice] for comprehensive investigation and appropriate action. This should include, as a minimum, review of all matters relating to BLM's conduct and management of the appraisal function, and the appraisals and appraisal reviews involved in noted land exchanges."

Wilkinson, a 25-year veteran BLM appraiser, requested whistle-blower status after publicly criticizing the desert tortoise and San Rafael exchanges, which he says were unduly influenced by Utahns, including House Resources Committee Chairman Jim Hansen, R-Utah, and BLM Director Kathleen Clarke, a former Hansen aide and Utah natural resources director under Leavitt.

**BLM Orders Review:** In response to the Appraisal Foundation report, BLM officials Thursday announced a 90-day review of all land exchanges now in process or under discission. Until further notice, the Department of Interior will review future BLM land exchanges "prior to finalization."

"The BLM is committed to ensuring that the land exchange program is impartial, credible, and consistent nationwide, and, most importantly, one that protects the public interest," said Jim Hughes, BLM deputy director for policy and external affairs.

The announcement comes a week after the U.S. Office of Special Counsel ruled federal negotiators on the San Rafael Swell trade probably abused their authority. The Interior Department is investigating those findings.

Critics of the San Rafael Swell exchange called the foundation's report a "blueprint for reform."

"This report completely vindicates the BLM appraisers who risked their careers to bring these issues forward," said Dan Meyer, general counsel for Public Employees for Environmental Responsibility (PEER), which is handling Wilkinson's whistle-blower disclosures.

"These findings cut right to the core duty of any Secretary of Interior — to safeguard the lands in trust for future generations."

*gburton@sltrib.com*

*Tribune reporter Dan Harrie contributed to this story.*

This page is a reference page used to track documents internally for the Division of Oil, Gas and Mining

Mine Permit Number S0270079 Mine Name Cambrillic mine
Operator cambrillic natural stone Date April 27, 2004
TO _____ FROM _____

__CONFIDENTIAL __BOND CLOSURE __LARGE MAPS X EXPANDABLE
__MULTIPUL DOCUMENT TRACKING SHEET __NEW APPROVED NOI
__AMENDMENT _OTHER_____

Description YEAR-Record Number

__NOI X Incoming __Outgoing __Internal __Superceded

United States Department of Interior office of Hearing and Appeals - Appeal from Decision by BLM Utah State Director

___NOI __Incoming __Outgoing __Internal __Superceded

__NOI __Incoming __Outgoing __Internal __Superceded

__NOI __Incoming __Outgoing __Internal __Superceded

__TEXT/ 81/2 X 11 MAP PAGES __11 X 17 MAPS __LARGE MAP

COMMENTS: _____

CC: _____