JON M. HUNTSMAN, JR.
Governor
GARY R. HERBERT
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas & Mining

MICHAEL R. STYLER
Executive Director
JOHN R. BAZA
Division Director

Notice of Violation ☒ No. N2007-58-01

CERTIFIED RETURN RECEIPT # 7005 2570 0000 4801 9912

To the following Permittee or Operator:

Permittee/Operator Name: Kennecott Utah Copper/ attn: Mr. Rohan McGowan-Jackson, Manager, Health, Safety & Environment and Sustainable Development

Mine Name: Bingham Canyon ☒ Surface ☐ Underground ☐ Other

County: Salt Lake State: Utah Telephone Number: 801-569-6000

Business Address: P.O. Box 6001 Magna Utah 84044

Permit Number: M/035/002

Ownership Category: ☐ State ☐ BLM ☐ USFS ☒ Fee ☐ Other

Date of Inspection: July 31,2007 Time: 11:00 ☒ a.m. ☐ p.m. to 1:30 ☐ a.m. ☒ p.m.

Under authority of the Utah Mined Land Reclamation Act, Section 40-8-1 et seq., ***Utah Code Annotated,*** 1953, the undersigned authorized representative of the Division of Oil, Gas, and Mining has conducted an inspection of above mine on above date and has found that a Notice of Violation or Cessation Order must be issued with respect to the conditions, practices, or violations listed. In accordance with Section 40-8-9, ***Utah Code Annotated,*** you are ordered to cease immediately the operations or activity described and to perform the required actions described within the designated time for abatement.

The undersigned representative finds that **this order** ☐ **does require cessation of all mining;**
☒ **does not require cessation of all mining.**

For this purpose, "mining" means development of, or extraction of a mineral deposit, including transportation within or from the mine site, concentrating, milling, evaporation, or other processing. Mining and/or reclamation operations not directly the subject of this order shall continue while this order is in effect. You are responsible for doing all work in a safe and workmanlike manner.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas, and Mining.

Date of service/mailing: 8-8-07 Time of service/mailing 2:00 ☐ a.m. ☒ p.m.

Permittee or Operator Representative — Title

Signature

Beth Ericksen
Division of Oil, Gas and Mining Representative

Mining Engineer
Title

Signature

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

SEE REVERSE SIDE

IMPORTANT – READ CAREFULLY

1. PENALTIES.

a. **Proposed assessment.** The Division of Oil, Gas, and Mining (DOGM) assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the DOGM will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be final unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to $5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of $750 for each day of continuing violation beyond the time set for abatement. In addition, if you fail to abate any violation as required you will be issued a Cessation Order requiring you to cease mining operations on the portion of the operations relevant to the violation.

2. STOP WORK CONFERENCE.

A Stop Work Conference may be requested if this notice requires cessation of all mining. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice requires cessation of all mining. (See Utah Admin. R647-6-102.4 et seq.)

You must request the Stop Work Conference within 30 days after service of this Cessation Order. The conference must be held within 5 days of your request. You will be notified of the date, time, and location of the conference.

Please send your conference request to:

Administrative Secretary
Associate Director of Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice, order or proposed assessment before the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary
Board of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in Utah Admin. R. 647-5 et seq.

4. INDIVIDUAL CIVIL PENALTIES.

An additional individual civil penalty of up to $5000 per day may be assessed against any corporate director, officer, or agent who knowingly and willfully authorized, ordered or carried out a violation or who fails or refuses to comply with an order.

For further information, consult ***Utah Code Annotated*** Section 40-8-9, 9.1, Utah Admin. R. 647-6, 7, 8 seq. or contact the Division of Oil, Gas, and Mining at (801) 538-5304.

Notice of Violation NO. N2007-58-01

Violation No. 1 of 1

Nature of condition, practice, or violation:

On Friday, July 27' 2007, 2.44 inches of rainfall resulted in the flow of Yosemite dump face material approximately 5000 ft off site into Butterfield Creek, a perennial stream. Current control measures were inadequate to manage and intercept the water/sediment flows from the Yosemite dump.

Provisions of act, regulations, or permit violated:

R647-4-107.1, R647-4-107.2, R647-4-107.3, R647-4-107.4, R647-4-107.5, R647-4-107.6

(Check box if appropriate:)

Condition, practice, or violation is creating an imminent danger to health or safety of the public.

__ Permittee/Operator is/has been conducting mining activities without a permit.

_x_ Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

__ Permittee or Operator has failed to abate Violation(s) No._____ included in Notice of Violation No. or Cessation Order No. M_____ within time for abatement originally fixed or subsequently extended.

Mining activity to be ceased immediately:

Affirmative obligation(s) or required action and abatement time (if applicable):

1. Identify appropriate and additional measure(s) to avoid or minimize future damage to natural channels. **2.** Provide detailed erosion control designs for all erosion control structures to show sediment is being controlled, contained. and treated in the Butterfield Canyon area. Optimize these designs. **3.** Demonstrate how deleterious materials (sediment) will be kept in an isolated condition to minimize or prevent any physical or chemical conditions in the soils and/or water so that environmental effects are adequately controlled. Establish and submit an implementable sediment-sampling plan before relocating sediment materials that meets Division approval. **3a.** Any sediment/debris that flowed outside of the permit area shall be cleaned-up and removed to a Division-approved location. **3b.** Identify where the removed sediment has been deposited and commit to remove the material to a Division-approved site if it is determined (through sampling) to adversely affect plant growth and/or water quality. **4.** Commit to establishing stability analysis plans for the waste dump area(s) that contribute to Butterfield Canyon watershed. Determine an appropriate slope stabilization method for all waste dumps contributing to Butterfield canyon area (which may include reducing the angle of repose of the dump slope). Numbered items 1-4 above must be incorporated into the mining and reclamation plan and approved by the Division.

Time frame for affirmative obligations numbered 1,2,3,4 is as follows: Within 45- days of the receipt date of this NOV all actions will include initial submittals to the Division which includes a schedule for each required action that specifically outlines a time frame and identified milestones that must be approved by the Division before implementation. Time frame for 3a and 3b is within 15 days.

pb
cc: Beth Ericksen, DOGM
Tom Munson, DOGM
Daron Haddock, DOGM
Doug Bacon, DEQ
Dan Hall, DWQ
Jan Robinson, DWQ (UPDES)
Rod Dansie, Citizen
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
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MICHAEL R. STYLER
Executive Director
JOHN R. BAZA
Division Director

Supervisor _____

Inspection Report
Minerals Regulatory Program
Report Date: August 8, 2007

Mine Name: Bingham Canyon Mine
Operator Name: Kennecott Utah Copper
Rohan McGowan-Jackson, Manager
Inspector(s): Beth Ericksen and Tom Munson
Other Participants: Vicky Peacy and Brian Vinton
Mine Status: Active

Permit number: M/035/002
Inspection Date: July 31, 2007
Time: 11:00 am

Weather: Sunny

Elements of Inspection	Evaluated	Comment	Enforcement
1. Permits, Revisions, Transfer, Bonds	☐	☐	☐
2. Public Safety (shafts, adits, trash, signs, highwalls)	☐	☐	☐
3. Protection of Drainages / Erosion Control	☒	☒	☒
4. Deleterious Material	☒	☒	☒
5. Roads (maintenance, surfacing, dust control, safety)	☐	☐	☐
6. Concurrent Reclamation	☒	☒	☒
7. Backfilling/Grading (trenches, pits, roads, highwalls, shafts, drill holes)	☐	☐	☐
8. Water Impoundments	☐	☐	☐
9. Soils	☒	☒	☒
10. Revegetation	☐	☐	☐
11. Air Quality	☐	☐	☐
12. Other	☐	☐	☐

Purpose of Inspection:

Citizen Complaint regarding water/sediment flow from Yosemite waste dump.

Inspection Summary:

The site inspection consisted of going to Butterfield Canyon area to view the sediment run-off from the Yosemite dump. The dump-face material filled the sediment basin, bypassed the cut-off wall and flowed down the drainage. There was matted vegetation in the drainage area, which indicated a slower flow, however, it traveled distance of approximately 5000 feet from the Yosemite waste dump toe. The sediment hit a low point in the county road. The pipe capacity was exceeded; the culvert was clogged, so the sediment flowed offsite across the road. It was then directed to Butterfield Creek, a perennial stream.

3. Sediment/waterflows from the Yosemite waste dump was not adequately controlled with the current control system.

4. Deleterious materials (sediment) affected vegetation, water and soils. The sediment traveled off-site along the county road and into Butterfield Creek.

6. The waste dumps are a high angle of repose so rainfall can accelerate erosion at a higher rate; the existing dump gullies are large and deeply incised. Therefore, debris flow or shallow surface slope failures can be initiated and travel great distances if water initiated. I requested to visit the top of Yosemite dump, however,

Vicky had a commitment, so did not inspect the dump surface. It does not appear the dump is utilized, and the condition warrants further review to ensure it is kept in a safe, environmentally stable condition.

9. The sediment at the base of Yosemite dump was being removed and Beth and Tom were told it was being placed at Copper Notch.

Conclusions and Recommendations:
Surface water controls may be inadequate for the Yosemite dump when pre-infiltrated water events occur. Since the source of the run off is the dump itself, it is necessary to evaluate the vulnerability of erosion that may lead to events small and/or large. Further detail is identified in the inspection memo dated August 6, 2007.

Recommend that a violation be issued regarding these events.

Inspector's Signature _____ **Date:** 8·8·07

BE:pb
cc: KUCC, Rohan McGowan-Jackson
Beth Ericksen, DOGM
Tom Munson, DOGM
Daron Haddock, DOGM
Doug Bacon, DEQ
Dan Hall, DWQ
Jan Robinson, DWQ (UPDES)
Rod Dansie, Citizen
Attachment: Photos taken on July 31, 2007