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DIV. OF OIL, GAS & MINING

Uranium Watch

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via electronic and first class mail

February 21, 2014

John R. Baza
Director
Division of Oil, Gas and Mining
Utah Department of Natural Resources
P.O. Box 145801
Salt Lake City, Utah 84114-5801
johnbaza@utah.gov

RE: Sage Uranium Mine (S0370058). Compliance With DOGM Regulations

Dear Mr. Baza:

I wish to bring to your attention the fact that the Utah Division of Oil, Gas and Mining (DOGM, or Division) has, for over 20 years, failed to administer and enforce its statute and regulations applicable to the suspension of mining operations at the Sage Uranium Mine (S0370058), San Juan County, Utah. I also request remedies for this situation.

The Sage Mine is on land administered by the U.S. Bureau of Land Management (BLM). From the 1970s to 1988 the mine was part of the Calliham Mine (M0370023). The Sage Mine last operated in 1990; therefore, the mine has been idle for almost 25 years. Documents related to the Sage Mine are available on the DOGM Mineral Files.[1]

REGULATORY COMPLIANCE

According to Utah Code 40-8-16(1)(c): "Approval may be withdrawn in the event that mining operations are continuously shut down for a period in excess of five years, unless the extended period is accepted upon application of the operator."

There is no evidence that the operator of the Sage Mine ever submitted an application to the Division requesting an extended period of non-operation after 5 years.

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[1] http://linux1.ogm.utah.gov/WebStuff/wwwroot/minerals/mineralsfilesbypermitinfo.php

According to Utah Rule R647-3-113.5: "Reclamation of a small mining operation may be required after five (5) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of the 10-year period and shows good cause for a longer suspension period."

There is no evidence that the mine operator, when the suspension period would exceed 10 years (which has happened twice), ever appealed to the Board for a longer suspension period. This means that, the Division should have required the complete reclamation of the Sage Mine, because the operator did not, prior to the expiration of the 10-year periods, appeal to the Board and show good cause for a longer suspension period.

In sum, for over two decades the mine operator and the Division have blatantly disregarded the statutory and regulatory requirements associated with the suspension of hard rock mining operations at the Sage Mine. This is really not surprising, since the Division has consistently failed to administer and enforce those regulations for other uranium mines in San Juan County.[2]

Attached below is Table 1 — Sage Mine: Compliance with DOGM Requirements for Suspension of Operations, which sets out the applicable requirements and compliance with those requirements for the Sage Mine.

In addition to ignoring the provisions applicable to periods of non-operation, the Division ignored the fact that Colorado Plateau Partners LLC, a part of Energy Fuels Resources Corporation, is not in compliance with all applicable federal statutes and regulations that apply to the Sage Mine. There is no BLM-approved Plan of Operations Reclamation Plan, Interim Management Plan, or reclamation surety for the Sage Mine, pursuant to the requirements of 43 C.F.R. § 3809.401. Such a Plan of Operations should have been submitted to the BLM as early as 1981. A Plan of Operations should have been in place when the mine last operated in 1990. To this day there is no BLM Plan of Operations for the Sage Mine, although the BLM has approved exploration drilling and the installation of monitoring wells. Also, there is no BLM Environmental Assessment for the Sage Mine.

Over the years there have been hazardous conditions and environmental degradation at the site. Mine waste rock and low grade ore was dumped over the side of Summit Canyon. Although the current owner has plans to reopen the mine, they have not submitted a Plan of Operations to the BLM or a Notice of Intent to DOGM for new mining activity. With the low price of uranium, the suspension of all uranium mining in Utah, and the cessation of uranium ore processing at the White Mesa Mill in mid-2014, it is unlikely that Energy Fuels Resources will be submitting a plan to commence operation at the Sage Mine anytime in the near future, if ever. Currently, there are 7 permitted, but non-operational uranium mines in Utah owned by Energy Fuels Resources: Sage,

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[2] For example: Pandora, La Sal Mine Complex, Rim, and Energy Queen Mines

Pandora, Rim, Tony M, Daneros, La Sal Mine Complex, and Energy Queen. It is not known when any of these mines will again commence operation.

The BLM also does not enforce its regulations applicable to the suspension of operations at uranium mines; for example, the Rim Mine in San Juan County (M0370006). So, there are two agencies that regulate uranium mines in Utah that believe they are under no obligation to implement their regulations that apply to the suspension of mine operations.

REQUEST FOR REMEDY

1. I request that the Division start enforcing its regulations with respect the suspension of operations at the Sage Mine and other uranium mines in Utah.

2. That the Division require the complete reclamation of the Sage Mine, because the operator did not, prior to the expiration of the 10-year period (or the 20-year period), appeal to the Board and show good cause for a longer suspension period.

3. That the Division inform the Board of the fact that the Division has not been implementing and enforcing the provisions in Rule R647-3-113.5 and other Utah Rules associated with the suspension of mining operations, including the requirement for an appeal to the Board for a suspension period longer than 10 years.

4. That the Division conduct an investigation into how the Division has and has not implemented and enforced the mine suspension statute and regulations over the past 40 years. The report must include documented evidence of regulatory failures and a plan to correct such failures. It should be completed in one year, made publicly available, and submitted to the Board at the first Board meeting after it is complete.

5. That the Division demand that the BLM require a Reclamation Plan and Interim Management Plan and develop an Environmental Assessment for the existing Sage Mine operation, pursuant to 43 C.F.R. § 3809.401.

I request a prompt response to this letter. If you have any questions, please feel free to contact me.

Sincerely,

Sarah M. Fields

Sarah M. Fields
Program Director
sarah@uraniumwatch.org

cc: Dana Dean, DOGM
Paul Baker, DOGM

TABLE 1 — SAGE MINE: COMPLIANCE WITH DOGM REQUIREMENTS FOR SUSPENSION OF OPERATION		
STATUTE/ REGULATION	**PROVISION**	**COMPLIANCE**
Utah Code 40-8-16	**Approved notice of intention valid for life of operation -- Withdrawal, withholding, or refusal of approval -- Procedure and basis.** (1) An approved notice of intention or approved revision of it remains valid for the life of the mining operation, as stated in it, unless the board withdraws the approval as provided in Subsection (2). (2) The board or the division shall not withdraw approval of a notice of intention or revision of it, except as follows: (a) Approval may be withdrawn in the event that the operator substantially fails to perform reclamation or conduct mining operations so that the approved reclamation plan can be accomplished. (b) Approval may be withdrawn in the event that the operator fails to provide and maintain surety as may be required under this chapter. (c) Approval may be withdrawn in the event that mining operations are continuously shut down for a period in excess of five years, unless the extended period is accepted upon application of the operator.	NO EVIDENCE THAT AN APPLICATION WAS SUBMITTED TO DOGM FOR THE SAGE MINE AFTER 5-YEARS SUSPENSION. ALTHOUGH MINE IS ON BUREAU OF LAND MANAGEMENT (BLM) LAND, THERE IS NO BLM-APPROVED RECLAMATION PLAN.

TABLE 1 — SAGE MINE: COMPLIANCE WITH DOGM REQUIREMENTS FOR SUSPENSION OF OPERATION		
STATUTE/ REGULATION	**PROVISION**	**COMPLIANCE**
Utah Code 40-8-21	**Temporary suspension or termination of operations -- Notice to division -- Evaluation and inspection -- Release of surety -- Evidence of compliance.** (1) In the case of a temporary suspension of mining operations, excluding labor disputes, expected to be in excess of five years' duration, the operator shall, within 30 days, notify the division. (2) In the case of a termination of mining operations or a suspension of such operations expected to extend for a period in excess of two years, the operator shall furnish the division with such data as it may require in order to evaluate the status of the mining operation, performance under the reclamation plan, and the probable future status of the mineral deposit and condition of the land affected. (3) Upon receipt of notification of termination or extended suspension, the division shall, within 30 days, cause an inspection to be made of the property and take whatever action may be appropriate in furtherance of the purposes of this chapter. (4) The full release by the division of surety posted under an approved notice of intention shall be prima facie evidence that the operator has fully complied with the provisions of this chapter.	NO EVIDENCE OF COMPLIANCE WITH THIS REGULATION FOR THE SAGE MINE.

TABLE 1 — SAGE MINE: COMPLIANCE WITH DOGM REQUIREMENTS FOR SUSPENSION OF OPERATION		
STATUTE/ REGULATION	**PROVISION**	**COMPLIANCE**
R647-3-113.1	**R647-3-113. Suspension or Termination of Operations. [Small Mining Operations]** 1. All mine operations are required to be maintained in a safe, clean, and environmentally stable condition. Active and inactive operations must continue to submit annual reports unless waived in writing by the Division.	MINE WAS NOT MAINTAINED IN A SAFE, CLEAN, AND ENVIRONMENTALLY SAFE CONDITION AT ALL TIMES.
R647-3-113.2	2. The operator need not notify the Division of the temporary suspension of small mining operations.	DOGM SHOULD REQUIRE NOTIFICATION OF TEMPORARY SUSPENSION OF MINE OPERATIONS WITHIN 30 DAYS.
R647-3-113.3	3. In the case of a termination or a suspension of mining operations that has exceeded, or is expected to exceed two (2) years, the operator shall, upon request, furnish the Division with such data as it may require to evaluate the status of the small mining operation, the status of compliance with these rules, and the probable future status of the land affected. Upon review of such data, the Division will take such action as may be appropriate. The Division may grant an extended suspension period if warranted.	DOGM DID NOT EVALUATE THE STATUS OF THE SAGE MINE AFTER 2 YEARS.

TABLE 1 — SAGE MINE: COMPLIANCE WITH DOGM REQUIREMENTS FOR SUSPENSION OF OPERATION		
STATUTE/ REGULATION	**PROVISION**	**COMPLIANCE**
R647-3-113.4	4. The operator shall give the Division prompt written notice of a termination or suspension of small mining operations expected to exceed five (5) years. Upon receipt of notification the Division shall, within 30 days, make an inspection of the property.	NO EVIDENCE THAT OPERATOR NOTIFIED DOGM OF SUSPENSION OF OPERATION EXPECTED TO EXCEED 5 YEARS.
R647-3-113.5	5. Small mining operations that have been approved for an extended suspension period will be reevaluated on a regular basis. Additional interim reclamation or stabilization measures may be required in order for a small mining operation to remain in a continued state of suspension. Reclamation of a small mining operation may be required after five (5) years of continued suspension. The Division will require complete reclamation of the mine site when the suspension period exceeds 10 years, unless the operator appeals to the Board prior to the expiration of the 10-year period and shows good cause for a longer suspension period.	DOGM DID NOT EVALUATE STATUS OF MINE AFTER 5 YEARS OF CONTINUOUS SUSPENSION. MINE OPERATOR FAILED TO APPEAL TO THE BOARD AFTER 10 YEARS. DOGM FAILED TO REQUIRE COMPLETE RECLAMATION OF MINE.