cc: Paul

United States Department of the Interior

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

TAKE PRIDE IN AMERICA

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DIV. OF OIL, GAS & MINING
MAR 15 2006

M/047/010

IN REPLY REFER TO:
3590
UTU-060749
(UT-923)

CERTIFIED MAIL--Return Receipt Requested

American Gilsonite Company
Mr. Dave Lewis
HC 73 Box 28,
Vernal, Utah 84078

RE: Mining Plan for Federal Gilsonite Lease UTU-060749

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to American Gilsonite Company (AGC) for opening up an area of the mine on Federal Gilsonite Lease UTU-060749 without an approved mining plan in accordance with 43 CFR 3592.1.

Background: On February 28, 2006 AGC submitted a mining plan modification for the Wagon Hound #4 mine via e-mail. In conversations prior to the submittal, BLM requested that photographs (Figure 2) of the area be submitted as part of the mining plan to show that this area in question was mainly on barren rock. This vein had a small stoped out area which was mined in the 1970's. The company filled it to the surface when mining was completed. The photograph shows that material was removed from an area on the vein that had previously filled. The company has placed rock bolts in the ground and placed a single strand of cable to fence the area.

The present mining plan as approved states that surface disturbance will be located within 150 (75 foot radius) feet of the shaft. Based on the map submitted with the mining plan modification, the edge of the opening is 93 feet away from the shaft and therefore, not consistent with the approved plan. Although the mining plan modification makes a request to mine in this area and use the old stoped out area as an access, this modification has not been approved.

Requirements to Correct the Noncompliance:

1. Immediately correct the public safety hazard with items including but not limited to signing, fencing, barricading, etc.
2. No further development shall be done until a mining plan modification approval is granted by BLM.

Within 30 days of receipt of this Notice of Non-Compliance, BLM requires that;

2. AGC complete a cover over the open stope with chain link type fencing material. A wire cable should be run the length where there any splices.

3. The fencing material should be stretched and attached to the rock. AGC should leave an ingress and egress into and out of the stope.

4. Send notification and pictures to BLM when the cover is completed.

Failure to comply with the Noncompliance:
Failure to comply with this notice of noncompliance may result in a legal proceedings to cancel the lease and as per 43 CFR 3598.4(a).

Appeal Rights
The Notice of Non-Compliance may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Notification of this decision will be considered to have occurred on the date of the letter. Within 30 days of this decision, a notice of appeal must be filed in the office of the authorized officer at 440 West 200 South, Salt Lake City, Utah, 84101-1345. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and 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 irreparable harm to the appellant or resources if the stay is not granted, and
(4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

Sincerely,

James F Kohler

James F. Kohler
Chief, Solid Minerals Branch

Enclosures
Picture (Figure 1. BLM Photo June 2002)
Picture (Figure 2. AGC Photo Feb 2006)
Form 1842-1

cc: VFO
Paul Baker, Utah Division of Oil, Gas and Mining, P.O. Box 145801, Salt Lake City, Utah 84114-5801 w/o enc.

SPerkes:sa:wh#4ufomnepamemo 3-10-2006 #2

Figure 1 Picture taken Jun 2002 (Photo looking North)

Figure 2 Picture submitted by American Gilsonite February 28, 2006 (Photo taken looking West)

Form 1842-1
(September 2005)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS
1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL.....

A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE NOTICE OF APPEAL.....

Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145-0151 or
Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101

WITH COPY TO SOLICITOR...

and
Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111

3. STATEMENT OF REASONS

Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR.....

and
Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition 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, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). 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 Interior Board of Land Appeals and to the appropriate Office of the Solicitor (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 other provided by law or other pertinent regulations, 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.

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ---------- Alaska
Arizona State Office ---------- Arizona
California State Office ------- California
Colorado State Office -------- Colorado
Eastern States Office --------- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ---------- Idaho
Montana State Office --------- Montana, North Dakota and South Dakota
Nevada State Office ---------- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ---------- Oregon and Washington
Utah State Office ---------- Utah
Wyoming State Office -------- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)