m/49/009

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
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Michael O. Leavitt
Governor

Lowell P. Braxton
Division Director

DIVISION OF OIL, GAS AND MINING
FACSIMILE COVER SHEET

DATE: Feb 15, 2002

FAX #: 1-435-433-6674

ATTN: Michael Lee

COMPANY: Jintis Utah Metals

DEPARTMENT:

NUMBER OF PAGES: (INCLUDING THIS ONE) 4

FROM: D Wayne Hedberg

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February 15, 2002

CERTIFIED RETURN RECEIPT
7099 3400 0016 8896 4059

Michael G. Lee
Tintic Utah Metals LLC
15988 Silver Pass Road
P.O. Box 51
Eureka, Utah 84628

Re: **Notice of Non-Compliance – Directive to Cease Operations on the Dry Stack Tailings Amendment**, Tintic Utah Metals, LLC, Apex/Burgin Mine, M/049/009, Utah County, Utah

Dear Mr. Lee:

This letter provides formal notice that mining operations at the Apex/Burgin Mine (M/049/009) located in Utah County, Utah, are being conducted in violation of the Utah Mined Land Reclamation Act, 40-801 et. seq. (Act) and the Minerals Reclamation Program Rules, sections R647-1 through R647-5.

A site inspection was performed on February 6, 2002 (inspection memo attached), which confirmed that large mining operations have been conducted outside of the approved permit area.

Findings of Non-Compliance

1. Tintic Utah Metals, LLC, has expanded their mining operations by an additional 5-7 acres of surface disturbance. Rule R647-4-118 requires an operator to file a Notice of Intention to Revise Large Mining Operations (FORM MR-REV), post adequate reclamation surety and receive Division approval of the revised permit application **before** creating any new mine disturbance. On August 14, 2001, Tintic Utah Metals did file an application to amend the approved Notice of Intention to include an additional 10 acres of disturbance; however, the revised surety has not been received and the operator has not received final approval for this amendment.

2. Rule R647-4-113 requires an operator to post surety with the Division to ensure adequate reclamation is performed, before mining-related disturbances are created. To date, Tintic Utah Metals has not filed adequate reclamation surety to cover the new surface disturbance.

Location of Non-Compliance

Disturbances associated with Tintic Utah Metals, LLC Apex/Burgin Mine are located in the SE1/4 SE1/4 of Section 15, the SE1/4 NW1/4 of Section 22, and the NW1/4 NW1/4 NW1/4 of Section 28, T10S, R2W, SLBM, Utah County, Utah.

Mitigation Requirements:

1. Conditional Tentative Approval was sent on February 11, 2002. Because, Tintic Utah Metals has already disturbed approximately 5-7 acres without approval, ***the operator must immediately cease all further operations within the Dry Stack Tailings area until final approval is granted by the Division.***

2. ***Tintic Utah Metals, must post an additional $60,400 of reclamation surety that has been calculated for the Dry Stack Tailings proposal.***

3. ***Tintic Utah Metals, must restrict its mining operations to the authorized areas under its approved Apex-Burgin large mine permit (excluding the Dry Stack Tailings area disturbance).***

4. ***You are hereby directed to contact the Division within 10 days of your receipt of this letter to schedule a meeting to discuss options to remedy this situation.*** Please contact Vicki Southwick, Executive Secretary, at (801) 538-5304 to arrange a meeting with the Associate Director to resolve this matter.

Penalties for Failure to Comply

1. Tintic Utah Metals, LLC's failure to comply with the mitigation requirements of this Notice of Non-compliance may result in the issuance of a formal Notice of Agency Action by the Division. This enforcement action could require the operator to appear at an informal hearing before the Division Director, or at a formal hearing before the Board of Oil, Gas and Mining. Following appropriate public notice and a formal hearing, the Board may issue an abatement or compliance Order requiring: immediate suspension or termination of all mining operations until the amended plan is approved; revocation of

tentative approval of the permit amendment and immediate reclamation of all disturbances; and/or other lawful requirements as authorized under the Act.

2. The Board may also ask the County prosecutor or attorney general to bring suit against the operator to enforce its Orders and to seek assessment of appropriate penalties, not to exceed $10,000 for each knowing or willful violation of the Act.

The Division presently holds a $350,000 Certificate of Deposit for the approved Apex-Burgin mine permit. Tintic Utah Metals may post another CD for the amended area, or post another form of surety. Please contact Joelle Burns at (801) 538-5291 to obtain the proper forms. A new Reclamation Contract form was sent to you on February 11, 2002.

If you have any questions regarding the requirements of this notice, please contact me at (801) 538-5286, or Doug Jensen at 538-5382. Thank you for your immediate attention to this matter.

Sincerely,

D. Wayne Hedberg

D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program

jb
Attachment: 2/6/02 inspection memo
cc: Mary Ann Wright, Associate Director
M49-09-nonc-2-12-02.doc