



Letter sent via email (gsheehan@blm.gov; cjprice@blm.gov; mpreston@blm.gov; dpals@blm.gov) and USPS First Class Mail (exhibits sent via email only)

March 15, 2024

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RE: A1 Lithium Inc., Mineral Exploration Project (DOI-BLM-UT-Y010-2021-0068-EA); A1 Lithium's illegal well pad construction activity

Dear Greg, Matt, Christina, and David:

The Southern Utah Wilderness Alliance (SUWA) provides the following supplemental information related to the A1 Lithium Inc. Mineral Exploration Project (DOI-BLM-UT-Y010-2021-0068-EA).¹ A timeline of relevant events discussed herein is attached as Exhibit 1.

In short, we understand that the Bureau of Land Management (BLM), Moab Field Office may soon reauthorize A1 Lithium's proposal to conduct lithium exploration activities near Canyonlands National Park and Dead Horse Point State Park. We urge BLM to defer acting on this proposal. A full review of the records provided to SUWA pursuant to a Freedom of Information Act (FOIA) request confirm that A1 Lithium has—on multiple occasions—operated illegally and contrary to BLM's express directives.

¹ The project information is available at <https://eplanning.blm.gov/eplanning-ui/project/2014014/510> (last updated Feb. 14, 2024).

BLM cannot reward the company for its illegal behavior and should reject this exploration proposal in its entirety.²

I. SUWA's State Director Review; A1 Lithium's Illegal Well Pad Construction Activities

In the fall of 2022, BLM first approved the A1 Lithium Project. As approved, the Project involved, *inter alia*, the construction of two well pads and drilling of two lithium wells in the Big Flat area, directly off State Route 313. State Route 313 is designated as the Dead Horse Mesa Scenic Byway and is the main access road to both the Island in the Sky unit of Canyonlands National Park and Dead Horse Point State Park.

SUWA timely appealed BLM's decision to the State Director.³ The State Director did not timely respond to SUWA's request for State Director Review (SDR) but instead (as explained below) responded more than two months later.⁴

BLM's information is inconsistent but A1 Lithium appears to have begun to clear the Mineral Canyon Federal 1-3 well pad in November 2022 (or at the latest in March/April 2023). For example, in an April 2023 inspection report, BLM staff made the following observation: "Work started to clear the pad site in November [2022] after the [DR/FONSI for the A1 Lithium Project] was signed."⁵ However, in contrast, BLM staff subsequently documented that the Utah Division of Oil, Gas and Mining (DOG M) issued its permit to commence operations on March 30, 2023, and soon thereafter "A1 Lithium prepare[d] [the] pad and access [route] at [the] Mineral Canyon Federal 1-3 location."⁶

It is undisputed that DOGM did not approve the company's mining exploration Notice and reclamation surety until March 30, 2023. Thus, if A1 Lithium began well pad clearing activities in November 2022, as stated in BLM's April 2023 Inspection Report, that activity was illegal.⁷

² See BLM, A1 Lithium Incorporated Mineral Exploration Project, Environmental Assessment, DOI-BLM-UT-Y010-2021-0068-EA, at 7 (updated July 2023) ("The No Action alternative is to reject the applicant's application to re-enter abandoned wellbores to explore for lithium, bromine, and other locatable minerals"), https://eplanning.blm.gov/public_projects/2014014/200525822/20083379/250089561/21-0068-EA_A1%20Lithium_Mineral%20Exploration%20Project_Updated20230726_highlighted.pdf (last visited March 14, 2024).

³ See SUWA Request for State Director Review (Jan. 20, 2023) (attached as Ex. 2).

⁴ See 43 C.F.R. § 3165.3(d) ("The State Director will issue a final decision within 10 business days after the receipt of a complete request for administrative review").

⁵ 3809 Inspection – A1 Lithium Mineral Canyon Federal 1-3 Site, pg. *1 (April 18, 2023) [herein, "BLM April 2023 Inspection Report"] (attached as Ex. 3); *see also* Email from David Pals, BLM, to Landon Newell, SUWA, Re: Illegal well pad construction (Aug. 23, 2023) (stating that preparation work started on the access road in November 2022) (attached as Ex. 4).

⁶ Email from Jennifer K. Whittington, BLM to David Pals, BLM, et al., RE: [EXTERNAL] Illegal well pad construction (A1 Lithium / Mineral Canyon Federal 1-3), at *1 (Aug. 25, 2023) (attached as Ex. 5).

⁷ See Letter from Dana Dean, DOGM, to Bill Richardson, A1 Lithium (March 30, 2023) (attached as Ex. 6).

On April 12, 2023, the State Director granted SUWA’s request for SDR.⁸ Two days later, BLM informed A1 Lithium of the SDR decision.⁹ On or around that date, Moab BLM Field Office staff “called A1 Lithium and told them to stop all preparations at the [Mineral Canyon Federal 1-3] location.”¹⁰ At that time, A1 Lithium had completed some well pad activities but “the site was still rough” and “[m]ore earthwork [was] needed prior to bringing the drilling equipment to the site.”¹¹

Following BLM’s SDR decision and pursuant to Moab BLM Field Office staff directions, A1 Lithium was prohibited from conducting any additional activities related to the development of the A1 Lithium Project, including at the Mineral Canyon Federal 1-3 well pad. Nonetheless, the company continued to construct the Mineral Canyon Federal 1-3 well pad. SUWA has repeatedly brought this issue to BLM’s attention. For example, in August 2023, we provided the BLM with satellite imagery documenting this new activity, which most likely occurred between May 24 and June 8, 2023.¹²

BLM does not dispute this fact. After SUWA brought the issue to their attention, Moab BLM Field Office staff visited the well pad and concluded that activities had occurred after BLM issued its April 14 cease and desist letter:

At the site inspection on 04/18/2023, the pad was cleared of vegetation and leveled with cut material from the south side. The surface was then covered in red brown rock and dirt material raked into furrows 8-12 inches deep and 12 inches wide.

At the site inspection on 08/29/2023, no furrows. The furrows were flattened by the tracks from heavy equipment such as a dozer. Second layer of lighter colored rock material placed on top of first red-brown layer – noticeable because of the color difference and slight change in rock material . . .¹³

This field report includes a series of photographs taken to document the illegal activity.¹⁴

Further muddying the issue of when this illegal activity occurred is the fact that the company never reported it to the BLM, as required. For example, after SUWA flagged the continued well pad construction at the Mineral Canyon Federal 1-3, the BLM project lead emailed other relevant

⁸ See BLM, Decision, State Director Review UT 23-5 (attached as Ex. 7).

⁹ See BLM Letter to A1 Lithium Inc., Remand of A1 Lithium Incorporated Mineral Exploration Project Decision Record and DOI-BLM-UT-Y010-2021-0068-EA (April 14, 2023) (attached as Ex. 8).

¹⁰ BLM April 2023 Inspection Report at *1.

¹¹ DOGM, Minerals Regulatory Program, Inspection Report, pg. *1 (April 18, 2023) [herein, “DOGM April 2023 Inspection Report”] (attached as Ex. 9).

¹² See Email from Landon Newell, SUWA, to David Pals et al., BLM (Aug. 25, 2023) (attached as Ex. 10); see also SUWA Powerpoint re: *Satellite Imagery of the A1 Lithium Exploration Project* (attached as Ex. 11).

¹³ 3500/3600/3809 Project Inspection Form, at *1 (Aug. 29, 2023) (attached as Ex. 12) (emphasis added).

¹⁴ See *id.* at *3-7 (Photographs 3 through 9). As further evidence, compare the August 2023 photographs with those taken in April 2023, which show a significant change in the well pad appearance. See BLM April 2023 Inspection Report at *3; DOGM April 2023 Inspection Report at 5-7.

staff in the Moab Field Office asking “[d]id either of you receive a phone call from A1 Lithium notifying you of this activity?”¹⁵ The answer from both staffers was the same: no.¹⁶

Finally, records provided by BLM in response to SUWA’s FOIA request clarify that the BLM State Office never adjudicated the company’s financial guarantee, which is a required step prior to commencing surface disturbing activities.¹⁷ SUWA first identified this issue for BLM on August 24, 2023.¹⁸ BLM never answered SUWA’s question regarding the adjudication but internal documents clearly indicate that the State Office never issued any such adjudication:

The BLM Utah State Office did not adjudicate the bond. The State Office did receive the bond instruments and the bond agency information from [DOGM], but it is not set at the [State Office] or recorded in MLRS.¹⁹

As such, A1 Lithium never had authorization to proceed with surface disturbing activities, regardless of when such activities were conducted: before or after the State Director’s April 12, 2023 decision granting SUWA’s SDR request.

In sum, according to the available record evidence:

- A1 Lithium conducted surface disturbing activities at the Mineral Canyon Federal 1-3 well pad location most likely beginning in November 2022. These activities were conducted more than four months before DOGM found the company’s Notice to be complete and approved the reclamation surety (and prior to receiving authorization from BLM).
- A1 Lithium conducted surface disturbing activities after having received BLM’s cease and desist order dated April 14, 2023. This activity included, at a minimum, the use of large machinery to flatten the Mineral Canyon Federal 1-3 well site (*i.e.*, to eliminate the 8-12-inch-deep, 12-inch-wide, furrows that were documented to exist at the well pad site on April 18, 2023) and to grade the site with a different soil type or layer.
- A1 Lithium never notified BLM prior to commencing surface disturbing activities at the Mineral Canyon Federal 1-3.
- A1 Lithium conducted the above-discussed activities even though the BLM Utah State Office never adjudicated the bond, or otherwise notified the company that it could proceed.

¹⁵ Email from Jennifer K. Whittington, BLM to David D. Schmalz, BLM, Jeffrey S. Brown, BLM (Aug. 25, 2023) (attached as Ex. 13).

¹⁶ *See id.*; *see also* Email from Jeffrey S. Brown, BLM to Jennifer K. Whittington, BLM (Aug. 25, 2023) (attached as Ex. 14).

¹⁷ *See* 43 C.F.R. § 3809.605(d).

¹⁸ *See* Email from Landon Newell, SUWA, to David Pals et al., BLM (August 24, 2023) (attached as Ex. 15).

¹⁹ Email from Jennifer K. Whittington, BLM to David Pals et al., BLM (Sept. 1, 2023) (attached as Ex. 16) (emphasis added).

In sum, A1 Lithium’s actions have established a pattern and practice of operating illegally and without the prerequisite authorizations from the BLM.²⁰

II. BLM’s Pending Decision on the Revised A1 Lithium EA; SUWA Request for a Meeting

Despite A1 Lithium’s repeated legal failings, BLM continues to move forward to (re)authorize the company’s proposals to develop public lands and minerals in the greater Labyrinth Canyon landscape. In July 2023, BLM released the draft revised environmental assessment (EA) for the A1 Lithium Project. SUWA timely commented on the draft EA.²¹ Among other issues, we explained that the draft EA fails to disclose and analyze all of the other past, present, and reasonably foreseeable projects in this same region, including other projects proposed by A1 Lithium and its parent company, Anson Resources.²² As our staff have discussed with you, there are several entities operating or hoping to operate in the greater Labyrinth Canyon landscape (including other subsidiaries of A1 Lithium’s parent company, Anson Resources) to explore for helium, lithium, potash, uranium, and conventional oil and gas. BLM has not yet—but must—account for (*e.g.*, analyze, consider and disclose) these collective proposals including their cumulative environmental impacts in a single comprehensive NEPA analysis.

As explained above, BLM should first hold A1 Lithium accountable (*e.g.*, issue Notices of Noncompliance) and take actions to remedy the illegal activity prior to considering the company’s proposal(s). Without doing so, BLM would reward the company’s illegal actions by reauthorizing the A1 Lithium’s project without first holding the company to account for its illegal use of public lands and resources.

SUWA requests the opportunity to meet with you and your staff prior to BLM issuing a decision on the revised A1 Lithium Project EA. Please contact me at landon@suwa.org, 801.428.3991, to arrange that meeting.

Sincerely,

/s/Landon Newell
Landon Newell
Staff Attorney
Southern Utah Wilderness Alliance

²⁰ As BLM is well aware, A1 Lithium is a subsidiary of Anson Resources. Another subsidiary of Anson is Blackstone Minerals who recently spilled a significant amount of contaminated water at a well site near Brown’s Wash, which empties into the Green River. *See, e.g.*, The Green River Observer, *UPDATED: Blackstone to host open house next week after incident at new lithium drilling site* (March 8, 2024), https://thegreenriverobserver.substack.com/p/blackstone-to-host-open-house-next?utm_source=substack&utm_medium=email. The company has failed to publicly take responsibility for this spill and instead stated (inaccurately): “The water from this flow was collected and disposed of in according to the plan.” Anson Resources, *Anson Completes “Surface” Drilling – Confirming No Interconnectivity Between Clastic Zones and Shallow Aquifers* (March 12, 2024), <https://wcsecure.weblink.com.au/pdf/ASN/02783664.pdf>.

²¹ *See* SUWA et al., A1 Lithium Incorporated Mineral Exploration Project, DOI-BLM-UT-Y010-2021-0068-EA (Aug. 25, 2023) (attached as Ex. 17).

²² *See id.* at 7-17.