



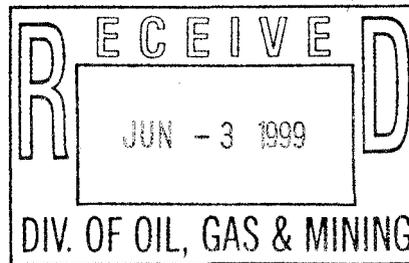
# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Price Field Office  
125 South 600 West  
Price, Utah 84501

3486  
U-017354  
UTU-70018  
(UT-070)

Certified Mail--Return Receipt Requested  
Certificate No. P 299 520 579

Denise Dragoo  
Resident Agent, Horizon Mining, LLC  
Snell & Wilmer, L.L.P.  
111 East Broadway, Suite 900  
Salt Lake City, Utah 84111



Re: Non-Payment of Royalties, Federal coal lease U-017354, White Oak Mining and Construction Company, LLC, Lessee

## Notice of Noncompliance

*Act/1007/001 #2  
Copy Fran*

The Minerals Management Service (MMS) notified this office on April 19, 1999, that royalty payments for reported production on Federal coal lease U-017354 at the White Oak Mine has not been paid. This is in violation of Section 2 (a) of the lease terms and conditions which states "the royalty shall be 8 percent of the value of the coal as set forth in the regulations. Royalties are due to lessor the final day of the months succeeding the calendar month in which the royalty obligations accrues." In addition, White Oak is in arrears with the annual rental payment for Federal coal lease UTU-70018. The BLM is issuing this notice to the operator/lessee to bring the lessee into compliance with the lease terms and conditions for the lease. Authority for the issuance of this notice is found at 43 CFR 3486.3 (a), regulations governing Federal coal lease operations under the Mineral Leasing Act of 1920, as amended.

To correct this violation, Horizon must pay all due royalty and rental payments to MMS in 30 days and provide this office with copies for proof of payment. Remittance must be made payable to Department of Interior - MMS for the amount of \$176,558.11 (see Enclosure 1, summary sheet) and sent to the address below: ←

Minerals Management Service  
Royalty Management Program  
P. O. Box 5810  
Denver, Colorado 80217-5810

Failure to comply without just cause may result in further action required by law which can include cessation of operations, lease bond forfeiture, and/or initiation of lease cancellation proceedings.

Should you disagree with payment records or amount of royalty owed, please contact this office and MMS with such evidence to show error with the payment record. You also have the right to appeal this notice, in part or full, to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and enclosure 2, Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 calendar days following the expiration of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay (suspension) of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of

appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 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 otherwise provided by law or other pertinent regulation, 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 a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merit;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

Sincerely,



Richard Manus  
Field Manager

2 Enclosures

1. MMS Summary Sheet
2. Form 1842-1

cc: State Office, Utah (UT-921) (w/o encls.)  
Washington Office (WO-320) (w/o encls.)  
Attn: Phil Allard  
1849 C Street NW, MS-501LS  
Washington, DC 20240  
White Oak Mining and Construction Co. (w/o encls.)  
HC 35 Box 370  
Helper, Utah 84526  
MMS - Royalty Valuation Division (w/o encls.)  
P. O. Box 25165, Mail Stop 3150  
Denver, Colorado 80225  
Utah Division of Oil Gas and Mining (w/o encls.)  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801  
Utah State Tax Commission (w/o encls.)  
Atten: Howard Winn  
210 North 1950 West  
Salt Lake City, Utah 84134