

2/13/04

0006

TO: Pam G-Littig / Dofm
FR: Henry Austin / OSM

Incoming
2/007/0001
Copy Pam,
Mary Ann:
Steve Alder

Hi Pam:

See attached the package I sent to
Codestar / William Bishop today.

Plan to send the same package to
IRA Rennett, probably Tuesday / 2/17 (RAW
out of time for our contract mail pickup
today.

Call or e-mail w/ questions.

Thanks for your help Pam!!

BEST WISHES

— HENRY —

(12 pages to follow:)

NOTICE OF POTENTIAL LIABILITY FOR AN INDIVIDUAL CIVIL PENALTY
ASSESSMENT UNDER SECTION 518(f) OF THE SURFACE MINING CONTROL
AND RECLAMATION ACT OF 1977, 30 U.S.C. 1268(f)

William D. Bishop
Name of Corporate Official

CHAPTER 7 TRUSTEE
Title of Corporate Official

LODESTAR ENERGY, INC.
Name of Corporate Permittee

CO4-140-116-001
Citation Number(s)

C/007/001, WhiteOak #1/#2/LOADOUT
Permit Number

The Office of Surface Mining Reclamation and Enforcement (OSMRE), pursuant to Section 518(f) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1268(f), may assess an individual civil penalty against a director, officer, or agent of a corporate permittee which has violated a condition of its permit or fails or refuses to comply with a cessation order. Section 518(f), in pertinent part, provides that:

[Any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties that may be imposed upon a person under [Section 518(a)]....

As [CHAPTER 7 TRUSTEE] of the above-referenced corporate permittee, you are hereby notified that the corporation has been issued a cessation order(s) #CO4-140-116-001, a copy of which is attached. You may be subject to an assessment of an individual civil penalty unless you cause the corporate permittee to comply with the requirements of the attached citation(s). Assessment of an individual civil penalty does not affect OSMRE's authority to assess civil penalties or take other enforcement actions against the corporate permittee as well.

This notice does not constitute an assessment, but rather advises that you are potentially liable for an Individual Civil Penalty. Because a Notice of Potential Liability for an Individual Civil Penalty Assessment is neither a section 521 notice of violation nor an order of cessation, nor a modification, vacation or termination of such notice or order, no administrative review by the Office of Hearings and Appeals is provided for under the provisions of 43 CFR 4.1160.

If you have any questions concerning this matter, you may contact:

116 HENRY AUSTIN (303) 844 1400 x1466
OSMRE ID Number Authorized Representative Telephone Number

(Detach along perforated line and retain for OSMRE records)

Signature of Individual Served

Date Served

I certify that a copy of this Notice was served upon
[insert individual's name] or his/her authorized agent.

Print name of server

Signature of Server

Attachment(s)

UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

CESSATION ORDER

Permanent Regulatory Procedures

1. Cessation Order Number

C04-140-116-001

TV

2

2. Name

LODESTAR ENERGY, INC.

Permittee

No Permit

Originating Office Address:

Denver Regional Office

3. Mailing Address

2525 HARRODSBURG ROAD, ~~SE~~ ^{SUITE 235}, Lexington, KY. 40504

US DOI, Office of Surface Mining

1999 Broadway, Suite 3320

Denver, CO 80202

4. Mine Name

WHITE OAK MINE 1 & 2

Surface

Other (Specify) 7

Underground

Telephone Number:

(303) 844-1400

5. Telephone Number

(859) 223-7959

6. County

CARBON

State

~~MT~~ **UT**

7. Operator's Name (If other than Permittee)

LEDCOR INDUSTRIES (USA) INC.

9. Date of Inspection

02/11/2004

8. Mailing Address 2525 Harrodsburg Rd., Suite 235

Lexington, KY 40504

10. Time of Inspection

From 02/11/2004 09:30 AM to 02/11/2004 01:30

11. State Permit Number

UT-007-001

12. NPDES Number

13. MSHA ID Number

42-01279

14. OSM Mine Number

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued for each violation(s) of the Act, the regulations, or required permit conditions listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice, or violation listed

In accordance with Section 521(a) of the Surface Mining Control and Reclamation Act of 1977, **YOU ARE ORDERED TO CEASE IMMEDIATELY** the operations described in the attachment(s) and to perform the corrective actions described in the attachment(s) within the designated abatement time. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS NOTICE DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this Order (30 CFR 843.15).

This Order shall remain in effect until it expires as provided on the attached notice or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary.

IMPORTANT – Please Read Information on the Next Page

15. Print Name of Person Served

Mr. William D. Bishop

18. Date of Service

11 SENT CERTIFIED MAIL #

16. Print Title of Person Served

Chapter 7 Trustee

19. Print Name of Authorized Representative

HENRY AUSTIN

17. Signature of Person Served

20. Signature of Authorized Representative

Henry Austin 2/13/04

ID Number

116

IMPORTANT--- PLEASE READ CAREFULLY

Permanent Regulatory Procedures

1. *Formal Review and Temporary Relief.* You may apply for review of this Order by submitting an application for review, within 30 days of receipt of this Order by you or your agent to:

Hearings Division
Office of Hearings and Appeals
U.S. Department of the Interior
801 North Quincy Street
Arlington, VA 22203-1999
(703) 235-3800

If you apply for a formal review, you may request temporary relief from complying with this Notice. Your request must be filed with the Hearings Division at the above address prior to a decision in the formal review. The procedures for obtaining a formal review or temporary relief are contained in Title 43 Code of Federal Regulations Section 4.

2. *Informal Public Hearing.* A Cessation Order which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing has been held within that time. On the first page of this Cessation Order, the authorized representative has made a finding as to whether or not this Cessation Order requires cessation of mining. If you are entitled to an informal review please notify the OSM office indicated on this Cessation Order.

No hearing will be held where the violation in question has been abated, or the hearing has been waived. Your right to an informal review will be deemed waived unless you request an informal review within 30 days after service of this Order.

OSM may conduct the hearing later than the 30 day period with the consent of the person to whom this Order was issued. You will be deemed to have consented to an extension of the time for holding the hearing if your request is received on or after the 21st day after the service of this Order.

3. *Penalties.* You may submit information in writing pertaining to the condition(s), practice(s) or violation(s) covered by this Order within 15 days of the date that the Order is served on you or your agent. This information will be considered in determining the facts surrounding the violation and the amount of penalty. You may also submit a request that the Director waive the use of the formula contained in 30 CFR Part 845.13 in determining the civil penalty for the violations cited in this Order. Your request must include your reasons for requesting the waiver. A waiver will be granted only if the Director determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. If you wish to submit this information, you should send it to one of the three addresses below:

For OSM's Appalachian Region:

US DOI, OSM
Knoxville Field Office
Program Support Group;
530 Gay Street, S. W., Suite 500
Knoxville, TN 37902

For OSM's Mid-Continent Region:

US DOI, OSM
Mid-Continent Regional Office
Program Support Group;
501 Belle Street
Alton, IL 62002

For OSM's Western Region:

US DOI, OSM
Western Regional Office
Program Support Group;
1999 Broadway, Suite 3320
Denver, CO 80202

For each violation covered by this Order, a penalty for up to \$5,000 may be assessed for each day during which that violation continues.

If you are a corporation, you may be assessed a separate penalty, for up to \$5000 for each violation, for which you can be held personally liable.

If this Order is being issued for failure to abate a violation(s) which was the subject of a prior Notice of Violation a minimum penalty of \$825 or more must be assessed for each day, during which the violation(s) continues beyond the abatement period set forth in that Notice, up to a maximum of 30 days.

If you willfully and knowingly fail or refuse to comply with this Order, you will be subject to criminal prosecution and will, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than one year or both.

4. *Effect on Permit.* In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or permit conditions exists, and that the violations were caused by unwarranted failure of the permittee or were willful violations, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT Title 43 Code of Federal Regulations Section 4; Title 30 Code of Federal Regulations Chapter VII; and Title V of the Act, or CONTACT the nearest OSM Office for a copy of the "Rights of Operators and Permittees" manual.

CESSATION ORDER (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

Failure to eliminate all highwalls at the Whiskey Creek Surface Mine, thereby creating an imminent danger to the health or safety of the public.

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

PL 95-87 521(a)(2); 30 CFR 816/817 102 (a) (2)

Mark "X" in the appropriate box

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- The permittee or operator has failed to abate Violation No. _____ of _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended pursuant to Section 521(a)(3) of the Act.

OPERATIONS TO BE CEASED IMMEDIATELY

N/A the mine is abandoned.

CORRECTIVE ACTION AND TIME FOR ABATEMENT (If Applicable – Not Required if F. T. A.)

Eliminate all the highwalls at the Whiskey Creek Surface Mine. Work should begin upon receipt of this order, and continue through completion of all highwall elimination. Complete the reclamation plan approved in Utah Permit C/007/001.

March 12, 2004 at 8:00am.

UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

Cessation Order Number
C04-140-116-001

CESSATION ORDER (CONTINUATION)

Violation Number
2 of 2

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

Failure to comply with the terms and conditions of the permit, thereby creating an imminent danger to the health or safety of the public. Failure to complete the approved demolition and reclamation plan for the coal loadout area contained in Utah Permit C/007/001.

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

PL 95-87 521(a)(2); 30CFR 773.17(c)

Mark "X" in the appropriate box

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- The permittee or operator has failed to abate Violation No. _____ of _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended pursuant to Section 521(a)(3) of the Act.

OPERATIONS TO BE CEASED IMMEDIATELY

N/A The site is abandoned.

CORRECTIVE ACTION AND TIME FOR ABATEMENT (If Applicable - Not Required if F. T. A.)

Complete the approved demolition and reclamation plan for the coal loadout area. Begin work upon receipt of this order and work through completion of the approved demolition and reclamation plan contained in Utah Permit C/007/001.

March 12, 2004 at 8:00am



U. S. DEPT. OF THE INTERIOR

OFFICE OF SURFACE MINING

Mine Site Evaluation

State Program



1. Permittee/Person LODESTAR ENERGY, INC.		9. Permit Number UT-007-001	10. Permit Type NP
2. Address 2525 HARRODSBURG ROAD, SUITE 235		11. Field Visit Date 02/11/2004 <small>mm - dd - yyyy</small>	12. Purpose F
3. City Lexington	4. State KY	13. SRA Present Y	14. Permit Status AB
5. Zip Code 40504	6. Phone Number (859) 223-7959	15. Site Status FP	16. Facility Type ABF
7. Operator Name, if Different than Permittee LEDCOR INDUSTRIES (USA) INC.		17. OSM Office # 140	18. CCID #
8. Mine Name WHITE OAK MINE 1 & 2		19. Land Code F	20. M.S.H.A ID # 42-01279
		21. State Abrev. UT	22. County Name CARBON
		23. AVS Permittee Entity ID Number 144419	24. State Office

25. Hours <table style="width: 100%;"> <tr><td style="border: 1px solid black; width: 50px; text-align: center;">4.0</td><td>a. Permit Review</td></tr> <tr><td style="border: 1px solid black; width: 50px; text-align: center;">4.0</td><td>b. Site Visit Time</td></tr> <tr><td style="border: 1px solid black; width: 50px; text-align: center;">8.0</td><td>c. Travel Time</td></tr> <tr><td style="border: 1px solid black; width: 50px; text-align: center;">4.0</td><td>d. Report Writing</td></tr> </table>	4.0	a. Permit Review	4.0	b. Site Visit Time	8.0	c. Travel Time	4.0	d. Report Writing	26. Signature Block <div style="text-align: center;"> Signature: _____ HENRY AUSTIN ID # 116 Printed Name: _____ Date: 02/12/2004 </div>	27. Reviewing Official: <div style="text-align: center;"> Signature: _____ Review Date: 2/13/2004 <small>mm - dd - yyyy</small> Is Supplemental MSE Page Used Y/N Y </div>
4.0	a. Permit Review									
4.0	b. Site Visit Time									
8.0	c. Travel Time									
4.0	d. Report Writing									

Permit Type -- Item 10 IP = Interim Program, PP = Permanent Program, NP = No Permit

Purpose Type Codes Item 12
 Oxx... Oversight Rfx... Reclamation Fees CCR... Citizen Complaint Referral (non site visit)
 Ass... Assistance Fxx... Federal Actions CC... Citizen Complaint (initial site visit)
 CCF... Citizen Complaint Follow-up

Joint Inspection -- Item 13 A joint inspection is when a state inspector accompanies an OSM inspector any time during the review of the mine site.

Permit Status - Item 14
 A... Active: Coal mining and reclamation activities occurring or permitted but not yet disturbed.
 IN... Inactive (Permanent Program Permit): Phase II completed or Temporary Cessation of Operations. (Interim Program Permit) Coal mining completed and reclamation activities initiated.
 BR... Bond Release: Reclamation completed and State Regulatory Authority (RA) has released all of the bond (Phase III Release.)
 AB... Abandoned: All surface and underground coal mining activities have ceased and operator has left the site without completing reclamation as defined in 30 CFR 840.11(g).
 AB1... Bond Forfeiture: Bond forfeiture officially in process or completed, and reclamation in progress or not yet commenced.
 AB2... Partially Reclaimed Forfeiture: Forfeited site where all bonds have been used to reclaim site, but site not reclaimed to Program standards.
 AB3... Reclaimed Forfeiture: Forfeited site that has been reclaimed to Program standards.
 NA... Not Applicable: When site is unpermitted.

Site Status Codes -- Item 15
 ND... No Disturbance: No coal mining and reclamation operations have been started.
 EX... Coal Exploration: Coal exploration operations have started and where coal mining operations have not begun.
 AP... Active Coal Producing: Coal surface mining activities are occurring.
 AN... Active Non-Producing: Active non-producing facility such as tippie or preparation plant.
 NM... No Mining: The Permit Status is active, site is not in Temporary Cessation, no surface coal mining activity, and site not regraded.
 MC... Mining Complete: No mining activity on site, site regraded and awaiting phase bond release.
 TC... Temporary Cessation: The RA has granted cessation of mining pursuant to 30 CFR 816/817.131(b).
 P1... Phase I Release: At least Phase I bond release granted for entire permitted area. For interim permits, partial bond release.
 P2... Phase II Release: At least Phase II bond release for the entire permitted area.
 P3... Phase III Release: Reclamation completed and the RA has released all bond.
 NS... Non-Site Visit: Status of site not determined.
 FP... Forfeiture Pending: The RA is pursuing actions to revoke the permit, collect the performance bond(s), and/or reclamation or forfeited site is in progress.
 FR... Forfeited and Reclaimed: Forfeiture reclamation completed.
 FO... Abandoned Site: Abandoned site that is permitted but there is no bond.
 WC... Wildcat: Coal mining and reclamation operations have or are taking place and the activity is not covered by the required permits from the RA.

Facility Type Codes -- Item 16
 A... Surface D... Auxiliary (Haulroad, Conveyor, and/or Rails) H... Exploration Permits L... Remaining site permitted under 30 CFR 785.25
 B... Underground E... Refuse and/or Impoundment I... Notice of Intent to Explore
 C... Preparation Plant F... Loading Facility and/or Tippie J... Exempt 16 and 2/3
 G... Stockpiles K... Government Financed Construction Exemption

Small Business Regulatory Enforcement Fairness Act (SBREFA)
Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you are a small business (a business with 500 or fewer employees including those of affiliates) and wish to comment on the enforcement or compliance activities of OSM, call 1-888-REG-FAIR (1-888-734-3247).

Page 1 of
Revised December 4, 1998

U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING

Mine Site Evaluation

State Program

Permittee/ Person **LODESTAR ENERGY, INC.**

Permit Number **UT-007-001**

Field Visit Date **02/11/2004**

Continuation Page

28. Performance Standard Categories

Codes: 1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere, 6=Previously Cited

A. Administrative 1. ___ Mining within Valid Permit 2. ___ Mining within Bonded Area X 3. 2 Terms & Conditions of Permit 4. ___ Liability Insurance 5. ___ Ownership and Control 6. ___ Temporary Cessation 7. ___ AML Rec. Fees -- Non-Respondent 8. ___ AML Rec. Fees -- Failure to Pay	D. Backfilling & Grading 1. ___ Exposed Openings 2. ___ Contemporaneous Reclamation 3. ___ Approximate Original Contour X 4. 2 Highwall Elimination 5. ___ Steep Slopes (includes downslope) 6. ___ Handling of Acid & Toxic Materials 7. ___ Stabilization (rills and gullies)	H. ___ Subsidence Control Plan I. Roads 1. ___ Road Construction 2. ___ Certification 3. ___ Drainage 4. ___ Surfacing and Maintenance 5. ___ Reclamation J. Signs & Markers 1. ___ Signs 2. ___ Markers K. ___ Distance Prohibitions L. Revegetation 1. ___ Vegetative Cover 2. ___ Timing M. ___ Postmining Land Use N. Other
B. Hydrologic Balance 1. ___ Drainage Control 2. ___ Inspections & Certifications 3. ___ Siltation Structures 4. ___ Discharge Structures 5. ___ Diversions 6. ___ Effluent Limits 7. ___ Ground Water Monitoring 8. ___ Surface Water Monitoring 9. ___ Drainage -- Acid-Toxic Materials 10. ___ Impoundments 11. ___ Stream Buffer Zones	E. Excess Spoil Disposal 1. ___ Placement 2. ___ Drainage Control 3. ___ Surface Stabilization 4. ___ Inspections & Certifications F. Coal Mine Waste (Refuse Piles/Impoundments) 1. ___ Drainage Control 2. ___ Surface Stabilization 3. ___ Placement 4. ___ Inspections and Certifications 5. ___ Impounding Structures	General Performance Category ___ 1) _____ ___ 2) _____ ___ 3) _____
C. Topsoil & Subsoil 1. ___ Removal 2. ___ Substitute Materials 3. ___ Storage and Protection 4. ___ Redistribution	G. Use Of Explosives 1. ___ Blaster Certification 2. ___ Distance Prohibitions 3. ___ Blast Survey/Schedule 4. ___ Warnings & Records 5. ___ Control of Adverse Effects	

Performance Standard Categories 30 CFR Counterpart

A. Administrative.....(816/817.41-57) 1. Valid Permit.....773.11 2. Mining within Bonded Area.....773.11 3. Terms & Conditions of Permit.....773.17 4. Liability Insurance.....800.60 5. Ownership and Control.....778.13 6. Temporary Cessation.....842.11(e) & 816/817.131 7. AML Rec. Fees -- Non-Respondent.....870.15(b) 8. AML Rec. Fees -- Failure to Pay.....870.15(a)	E. Excess Spoil Disposal.....(816/817.71-74) 1. Placement.....71(f) 2. Drainage Control.....71(f) 3. Surface Stabilization.....71(g) 4. Inspections & Certifications.....71(h)
B. Hydrologic Balance.....(816/817.41-57) 1. Drainage Control.....45 2. Inspections & Certifications.....49(a)(10) 3. Siltation Structures.....46 4. Discharge Structures.....47 5. Diversions.....43 6. Effluent Limits.....42 7. Ground Water Monitoring.....41(c) 8. Surface Water Monitoring.....41(c) 9. Drainage-Acid - Toxic Materials.....41(f) 10. Impoundments.....49 11. Stream Buffer Zones.....57	F. Coal Mine Waste (Refuse Piles/Impoundments)(816/817.81-84) 1. Drainage Control.....83(a) 2. Surface Stabilization.....83(b) 3. Placement.....83(c) 4. Inspections and Certifications.....83(d) 5. Impounding Structures.....84
C. Topsoil & Subsoil.....(816/817.22) 1. Removal.....22(a) 2. Substitute Materials.....22(c) 3. Storage and Protection.....22(c) 4. Redistribution.....22(d)	G. Use of Explosives.....(816/817.61-68) 1. Blaster Certification.....61(c) 2. Distance Prohibitions.....61(d) 3. Blast Survey/Schedule.....62-64 4. Warnings & Records.....66 & 68 5. Control of Adverse Effects.....67
D. Backfilling & Grading.....(816/817.95-107) 1. Exposed Openings.....816/817.13, 14, 15, & 823.11 & 21 2. Contemporaneous Reclamation.....100 3. Approximate Original Contour.....102(a)(1) 4. Highwall Elimination.....102(a)(2) 5. Steep Slopes (includes downslope).....107 6. Handling of Acid & Toxic Materials.....102(c) 7. Stabilization (rills and gullies).....95(b)	H. Subsidence Control Plan.....(817.121-122) I. Roads.....(816/817.150-151) 1. Road Construction.....150(c) 2. Certification.....151(a) 3. Drainage.....150(b)-151(d) 4. Surfacing and Maintenance.....150(c)-151(d) 5. Reclamation.....150(f)
	J. Signs & Markers(816/817.11) 1. Signs.....11(a),(b), & (c) 2. Markers.....11(a),(b),(d),(e), & (f)
	K. Distance Prohibitions.....(761.11) L. Revegetation.....(816/817.111-116) 1. Vegetative Cover.....111 & 116 2. Timing.....113
	M. Postmining Land Use.....(816/817.133)

U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING

Mine Site Evaluation

**State Program
Continuation Page**

Permitted Person

LODESTAR ENERGY, INC.

Permit Number

UT-007-001

Field Visit Date

02/11/2004

29. Off-Site Impact Data and Identified Violation Data.

List all Ten-Day Notice actions and all Federal NOV or CO actions taken or reviewed during this current OSM site visit. List the off-site impacts associated with either State or Federal actions taken during this site visit.

1. A. Specific State Law/Regulations Violated: <u>PL 95-87 521(a)(2); 30 CFR 816/817 (a)(2)</u>				L. Off-Site Impacts			
B. Description: <u>Failure to eliminate all highwalls, thereby creating an imminent danger to the health or safety of the public. All highwalls remaining at the Whiskey Creek Mine.</u>				People	Land	Water	Structures
C. Performance Standard <u>D4</u>				D. Abated (Y/N) <u>N</u>			
E. OSM Action <u>6</u>				F. OSM Action Number <u>C04-140-116-001</u>			
G. Optional <u> </u>				H. Any Off-Site Impacts Y/N <u>N</u>			
I. Latitude <u>39°67'78"</u>				J. Longitude <u>111°17'69</u>			
K. Elevation <u>8,800</u>				Blasting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Hydrology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Encroachment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. A. Specific State Law/Regulations Violated: <u>PL 95-87 521(a)(2); 30CFR 773.17(c)</u>				L. Off-Site Impacts			
B. Description: <u>Failure to comply with the terms and conditions of the permit, thereby creating an imminent danger to the health & safety of the public. Failure to complete the approved demolition and reclamation plan for the landout area.</u>				People	Land	Water	Structures
C. Performance Standard <u>A3</u>				D. Abated (Y/N) <u>N</u>			
E. OSM Action <u>6</u>				F. OSM Action Number <u>C04-140-116-001</u>			
G. Optional <u> </u>				H. Any Off-Site Impacts Y/N <u>N</u>			
I. Latitude <u>39°66'67"</u>				J. Longitude <u>111°16'08</u>			
K. Elevation <u>8,800</u>				Blasting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Hydrology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Encroachment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. A. Specific State Law/Regulations Violated: _____				L. Off-Site Impacts			
B. Description: _____				People	Land	Water	Structures
C. Performance Standard <u> </u>				D. Abated (Y/N) <u> </u>			
E. OSM Action <u> </u>				F. OSM Action Number <u> </u>			
G. Optional <u> </u>				H. Any Off-Site Impacts Y/N <u> </u>			
I. Latitude <u> </u>				J. Longitude <u> </u>			
K. Elevation <u> </u>				Blasting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Hydrology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Encroachment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. A. Specific State Law/Regulations Violated: _____				L. Off-Site Impacts			
B. Description: _____				People	Land	Water	Structures
C. Performance Standard <u> </u>				D. Abated (Y/N) <u> </u>			
E. OSM Action <u> </u>				F. OSM Action Number <u> </u>			
G. Optional <u> </u>				H. Any Off-Site Impacts Y/N <u> </u>			
I. Latitude <u> </u>				J. Longitude <u> </u>			
K. Elevation <u> </u>				Blasting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Hydrology	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Encroachment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OSM Action

- 1) Deferred to State Action
- 2) TDN Issued
- 3) NOV Issued
- 4) FTA-CO Issued
- 5) III-CO Issued (Imminent Environmental Harm)
- 6) IV-CO Issued (Imminent Danger to Public)
- 7) Previously Cited by RA, Abatement Pending
- 8) Abated during or before OSM Inspection
- 9) Follow-up of Federal Action

Off-Site Impacts

For each type of impact and resource affected, enter "N, D, or J" to describe the degree of off-site impact:
 N - Minor Occurrence
 D - Moderate Occurrence
 J - Major Occurrence

February 11, 2004

Lodestar Energy, Inc. Bankruptcy Estate
Mr. William D. Bishop, Trustee
2525 Harrodsburg Road, Suite 235
Lexington, KY 40504

White Oak Mine Complex, Utah Permit Mine No. UT/007/001
Whiskey Creek Surface Mine, Federal Inspection, February 11, 2004

Participants:

Steve Demczak, Utah Division of Oil, Gas and Mining (DOG M)
Henry Austin, Office of Surface Mining (OSM)

I conducted an OSM Federal inspection of the Whiskey Creek Surface Mine permit area, including the former railroad siding / coal loadout area, on February 11, 2004, accompanied by Steve Demczak, DOGM. The permittee has abandoned the site, the DOGM mine permit approved reclamation plan remains in effect for all disturbed areas including the mine haulroad. The permittee remains responsible for completion of the approved reclamation plan. There are no personnel or reclamation equipment on either the mine site, or coal loadout area, Reclamation contractors (Lodcor Industries USA, Inc.) operating on behalf of Lodestar's former surety company, Frontier Insurance Company, have ceased reclamation work on the site since my last inspection here on November 20, 2003. There were no personnel at the Lodcor Industries Inc. office space in Scofield, UT.

All areas inspected were snow covered. Prior to the inspection, I contacted DOGM to make travel arrangements into the site, and I contacted the Bureau of Land Management (BLM-Jeff McKenzie) offices in Salt Lake City, to notify BLM of my intentions to inspect the site. I noted to Mr. McKenzie that I intended to inspect the unimproved access road that leads into the mine site disturbed area if ground-snow conditions allowed. This potentially dangerous public access is also noted in my November 20 inspection report. I learned during the inspection that the portion of this road north and west of the permit area, that provides access into the disturbed area and remaining highwalls, is a USFS road. I will contact the USFS offices in Price, UT, to discuss this unimproved road.

Access to the mine site was via snowmobile on the mine haulroad. The haulroad is not being maintained and was snow covered. Both digital images and 35 mm slide photos were taken of the mine site disturbed areas. As noted also in my November 20 inspection report from the OSM inspection noted above, dangerous highwalls still exist on site during this inspection. Highwalls were photographed. These highwalls represent an imminent harm to the health or safety of the public, therefore, today I am issuing Imminent Harm Cessation Order C04-140-116-001, violation 1 of 2, for failure to eliminate all highwalls on the Whiskey Creek Mine (to be sent certified mail from OSM's Denver, CO offices upon my return). We discussed several other backfilling and grading, and other compliance / safety issues on site.

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We observed the USFS unimproved road route noted above, just north and west of the disturbed area and remaining highwalls. Photos were taken, snow cover reduced visibility of the road profile.

Mr. Demczak is issuing a DOGM / NOV this date for failure to construct and maintain the undisturbed runoff diversion culvert in Whiskey Creek, we discussed where the upstream inlet to this culvert should be generally while observing the disturbed area, and that it could not be located and reopened / reestablished by the reclamation contractor to function according to the approved designs in the permit. Apparently the culvert is buried under several feet of backfill-spoil material, and not capable of functioning as designed. This culvert needs to be reestablished prior to Spring 2004 runoff in order to function as designed. This completed the inspection of the Whiskey Creek Mine site disturbed area.

We proceeded to the entrance of the USFS unimproved access road noted above which we accessed from the Eccles Creek Canyon main roadway. The USFS road enters the Eccles Canyon roadway at the Carbon County signage. There is a USFS sign also describing allowable motorized vehicle access on this unimproved roadway. There were recreational (cross country) ski tracks north of the Eccles Canyon roadway at this location. Parking is available at this location. Photos were taken.

We drove from the above into Clear Creek, UT. This same USFS road enters private land east and then south of the permit area and may be associated with the Questar natural gas pipeline route; and / or an additional unimproved road(s) to access the Questar pipeline route. We noted that just before entering Clear Creek on the main paved roadway, there are 2 locked gates on the west side of the road on what appears to be an unimproved roadway(s). Snow cover limited visibility. Access to the permit area by this road must be prevented by the permittee in order to avoid access to the disturbed areas of the mine by the public, and thus imminent harm to the health or safety of the public as the road could access the dangerous highwall areas noted above. We will contact Questar to ensure they are aware of the abandoned status of the mine, and dangerous highwall areas.

We drove to the abandoned coal loadout area (MSHA ID # 42-02315), just off the Eccles Creek Canyon road, and walked onto the site. This site is contiguous to the Eccles Creek Canyon road and readily accessible to the public using this road. The gate on the site haul road was locked, but easy to walk around or over. Reclamation contractors, (Mr. Mark Wayment, Whiskey Creek Mining Services, LLC.) began demolition and salvage of the buildings, coal conveyance structures, and other coal loadout structures / facilities here sometime after my November 20, 2003, inspection. The demolition and structure removal is incomplete, and the site remains abandoned, resulting in an imminent harm to the health or safety of the public.

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The principle structures still remaining that cause imminent harm include, but are not limited to: The Utah No. 2 Mine Portal (fenced but not securely sealed), the former grizzly / truck coal dump, coal silo, access to the coal reclaim tunnel from the base of the coal conveyor and base of the coal silo, and the coal conveyor / railroad loadout building. Therefore, OSM Imminent Harm Cessation Order C04-140-116-001, violation 2 of 2 was issued this date (see certified mailing above). Photos were taken of all the above structures.

In addition to contiguous access to this loadout site from the Eccles Canyon Road, 2 youth recreation camps for students, the Alpine School District Camp and Helaman Hollow (LDS Church Camp) exist directly across the road from this loadout site. Photos were taken from the loadout site west towards these 2 camps. We drove over to the Alpine School District Camp and spoke to Mr. Keith Larson, caretaker, concerning the imminent dangers of the site noted above. Mr. Larson indicated he had been made aware of the dangers on the abandoned site already by DOGM, and that he has warned camp participants that the site was strictly off limits. In addition, Mr. Larson expressed concern about oil leakage from an old electricity transformer(s) that apparently has been abandoned on the west side of the Eccles Creek Canyon road below the camp buildings. He said the leaking oil may contain PCB's as it is an older model transformer. This concrete pad area where the transformer is now located was formerly a Valley Camp of Utah (previous post-SMCRA permittee at this site) office building location. This concrete pad area was probably removed from the Valley Camp permit area in association with the recreation camp development.

Mr. Larson could not determine if the leaking transformer(s) was associated with the loadout activities either before or after site abandonment.

There was no one in charge at the Helaman Hollow Camp, but the access road has been plowed and it appeared the site is being accessed. This concluded our field inspection.

Please address any questions concerning this action to Henry Austin at haustin@osmre.gov or to (303) 844-1400 x1466.