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IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
P.O. Box 46667
Denver, Colorado 80201-6667

April 19, 2004

NOTICE OF PROPOSED CIVIL PENALTY ASSESSMENT (NOPA) ASSESSMENT OF DAILY CIVIL PENALTY

Incoming
C007/0001
Copy Mary Ann,
John, Steve A,
Tom
(2-sided)

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

RE: Daily Civil Penalty C04-140-999-001, "White Oak Mine 1 & 2", Utah Permit C007/001

Dear Mr. Bishop:

Under the authority of THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977, 30 U.S.C. 1201 et seq., on February 13, 2004, you were issued; **Imminent Harm Cessation Order C04-140-116-001**, via certified mail, which required you to abate the violation(s), condition(s) or practice(s) cited therein by March 12, 2004.

A reinspection of the area cited in the violation(s), condition(s), or practice(s) conducted on March 12, 2004 revealed that the abatement requirements of the Imminent Harm Cessation Order had not been complied with. A second reinspection conducted on April 16, 2004 revealed that the violation(s) remained unabated for a thirty (30) day period after the March 12, 2004 reinspection date. Therefore, in accordance with the Federal regulations under 30 CFR 845.15(b) and (b)(2), the Office of Surface Mining Reclamation and Enforcement does hereby issue a Notice of Proposed Assessment of a Daily Civil Penalty in the amount of **\$27,750.00** per violation cited in the Imminent Harm Cessation Order.

Therefore, in accordance with 30 CFR Part 845, you are hereby issued a proposed Daily Civil Penalty assessment, in the amount of **\$55,500.00** for the violation(s) contained in the Imminent Harm Cessation Order.

Carefully read this letter and the enclosed information concerning the requirements for payment of civil penalty assessments. Information regarding the requirements for obtaining informal and formal administrative review of the proposed penalty is also enclosed.



RECEIVED
APR 21 2004
DIV. OF OIL, GAS & MINING

If you have any questions, you may call Carl R. Johnston, Northwest Branch, at (303) 844-1400, extension 1500.

Sincerely,

A handwritten signature in cursive script that reads "James Fulton".

James Fulton, Chief
Denver Field Division

Enclosures

cc: OSM - Denver Field Division
Bureau of Land Management - State Office
Bureau of Land Management - Price Field Office
U.S. Forest Service - Manti-La Sal National Forest
Utah Division of Oil, Gas, & Mining - Coal Regulatory Program

ASSESSOR #: 61

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ASSESSMENT WORKSHEET

PERMIT: C007/001

Daily Civil Penalty CO: C04-140-999-001

Company Name / Permittee: Lodestar Energy, Inc.

Failure to abate violation(s): 1 of 2 and 2 of 2 contained in IHCO C04-140-116-001

Date of Reinspection: March 12, 2004

Terminated: _____ Not as of: April 16, 2004

Violation No.	Days in Violation	Daily Penalty Amount	Amount of Proposed Assessment
<u>. 1 . of . 2 .</u>	<u>. 30 .</u>	<u>\$925.00.</u>	<u>\$27,750.00</u>
<u>. 2 . of . 2 .</u>	<u>. 30 .</u>	<u>\$925.00.</u>	<u>\$27,750.00</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>
<u>. . . of . . .</u>	<u>. . . .</u>	<u>\$</u>	<u>\$</u>

TOTAL PROPOSED ASSESSMENT: \$55,500.00

PAYMENT AND APPEAL INFORMATION

I. PAYMENT PROCEDURES

Unless you request an informal assessment conference or formal administrative review of the penalty in accordance with the instructions set forth below, the proposed civil penalty assessed in the accompanying NOTICE OF PROPOSED CIVIL PENALTY ASSESSMENT (NOPA) will be re-issued as a FINAL ORDER thirty (30) days after receipt of this letter. If there is a pending appeal for review of the citation under 30 CFR 843.16, the FINAL ORDER will be issued after conclusion of the appeal. Payment must be received by the Office of Surface Mining (OSM), Collections Team, within 30 days after the issuance of the FINAL ORDER or the debt will be considered delinquent and the following sequence of charges will be applied to your account: (1) Interest calculated at the current Treasury rate will be assessed from the day when payment of the civil penalty was first due. (2) Administrative costs will be incurred in the processing and handling of the delinquent debt, such as the cost of referring the account to a debt collection company. (3) If any portion of the civil penalty remains unpaid ninety (90) days after the assessment is first due, you will be subject to a 1 percent penalty per year upon the balance due calculated from the first day of delinquency. This penalty will accrue at the rate of one-half of one percent for each month or portion thereof that the balance remains unpaid.

Payment should be made by check or money order, payable to the "Office of Surface Mining" and mailed to:

U. S. Department of Interior
Office of Surface Mining
P. O. Box 360292 M
Pittsburgh, PA 15251

To assure proper credit for your payment, please note on your check or money order the citation number for which payment is being made. If payment of the civil penalty in a lump sum will result in severe financial hardship please contact a collection specialist immediately at (303) 236-0330 to discuss installment terms.

Please note that, even though payment is not delinquent until 30 days after the assessment becomes a Final Order, a record of this civil penalty will be placed on the Applicant Violator System (AVS) at the time a Final Order is issued. Placement on AVS may block the issuance of any pending permit.

Federal law also authorizes the collection of the debt (created by issuance of a Final Order) by administrative offset against any payments or refunds due you from the Federal Government. You would have opportunity to inspect and copy OSM records pertaining to this debt, and/or enter into a written agreement with OSM to repay this debt, before such offset occurs.

II. TO REQUEST AN INFORMAL ASSESSMENT CONFERENCE

If you wish an informal assessment conference with a representative of OSM to review the amount of this proposed assessment, you must submit a written request within thirty (30) days after you receive this letter as provided at 30 CFR 845.18(a) [30 CFR 725.18(a) for interim program operations]. You may use the enclosed form to request an informal assessment conference by sending your request to:

Carl R. Johnston, Northwest Branch
Office of Surface Mining
P.O. Box 46667
Denver, CO 80201-6667

or by telecopying to the number on the form.

III. TO REQUEST A FORMAL HEARING

If you wish a formal hearing before an Administrative Law Judge under Section 518 of SMCRA [30 U.S.C. 1268] (30 CFR 845.19) to contest either the proposed penalty assessment or the fact of the violation, or both, you must file a Petition for Review together with payment for the full amount of the civil penalty assessed. Your payment will be deposited in an escrow account until there is a final decision on the amount, if any, that is due. The fact of the violation may not be contested if it has been previously decided in a formal administrative review pursuant to 30 CFR 843.16. The dates for filing the Petition for Review are: (1) If you are not requesting an informal assessment conference, you have 30 days from receipt of this letter to file the Petition for Review with escrow payment; and (2) If an informal assessment conference has been held, you have 30 days from receipt of the conclusion of the conference to file the Petition for Review with the escrow payment.

Your escrow payment must be made by check or money order payable to the "Office of Surface Mining" **In order to assure proper credit for your payment, please write the number of the NOV or CO and the pertinent violation(s) on the front of the check or draft.** Attach the draft or check to the petition and send to:

U. S. Department of the Interior
Office of Hearings and Appeals
801 N. Quincy Street
Arlington, Virginia 22203

The requirements for the contents of the Petition for Review are set forth at 43 CFR 4.1152.

If you wish a hearing to contest some, but not all, of the assessed penalties under Section 518, you must indicate the specific violation(s) for which you want a hearing. You must pay into escrow the proposed penalty for those violations. However, with respect to the uncontested

III. TO REQUEST A FORMAL HEARING

penalties, you must pay them within 30 days after the assessment becoming a Final Order to avoid the additional charges described in Section I.

If it is determined through administrative review of the proposed penalty that no violation occurred, or that the amount of the penalty should be reduced, OSM will refund the amount with appropriate interest. However, all refunds are subject to administrative offset for any other outstanding civil penalty debts and/or delinquent reclamation fees you may owe. You would have opportunity to inspect and copy OSM records pertaining to such other debt, and/or enter into a written agreement with OSM to repay such other debt, before such offset would occur.

Please be advised that failure to forward the amount of the proposed assessment along with the Petition for Review under Section 518 of SMCRA will result in a dismissal of your Petition.

Since you are requesting a formal hearing, you may want to have an attorney assist you in the presentation of your case. However, you are entitled to represent yourself.

Locations for hearings are selected by the Administrative Law Judge with due regard for the convenience of the parties and witnesses.

CONFERENCE REQUEST FORM

U.S. Department of the Interior
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-5733

ATTENTION: Carl R. Johnston, Northwest Branch
Program Support Division

OR FAX to: 303-844-1538, followed by a signed original request.

Pursuant to 30 CFR 845.18, I request a conference to review the proposed assessment for violations of Cessation Order # C04-140-999-001.

My telephone number is () _____.

(Signature) (Date)

(Please Print Name and Title)

(Name of Permittee or Operator)

(Street Address or PO Box)

(City, State, Zip Code)

Provided your request is **received** within 30 days as provided in 30 CFR 845.18, you will be contacted by a conference officer in order to arrange the time and place of the conference.

Pursuant to 30 CFR 845.18(b)(2), at least 5 days prior to the conference, OSM will post notice of the time and place of the conference at the OSM field office that has jurisdiction over the mine. Any person has the right to participate in the conference.

Please keep a copy of the completed form for your files.