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DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED
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Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

November 3, 2020

Elliot Finley, Resident Agent
Hiawatha Coal Company, Inc.
3212 S. State Street
Salt Lake City, Utah 84105

Subject: Performance Bond ILOC Requirement, Hiawatha Coal Company, Inc., Hiawatha Mine, C/007/0011

Hiawatha Coal Company, Inc.'s performance bond for the Hiawatha Mine is an Irrevocable Letter of Credit issued through Fidelity Funding Company.

According to R645-301-860.222 which governs letters of credit, and requires that they be issued only by a bank organized or authorized to do business in the United States. However, Fidelity Funding Company is not a bank organized or authorized to do business in the United States. They are not chartered under Utah law. While the definition of banks differ by jurisdiction, on commonality between definitions is that the institution accepts deposits. Fidelity Funding Company is registered through the Division of Corporations and Commercial Code as a "Nondepository Credit Intermediation" and it does not accept deposits. As such it does not meet our rules.

The performance bond for Hiawatha Mine must replace its performance bond to some other form or the ILOC must be issued by a "bank". Hiawatha Coal Company, Inc. will have 120 days from the date of this notification in which to achieve compliance.

If you have any questions, please call me at (801) 538-5320 or Suzanne Steab at (801) 538-5265.

Sincerely,

Dana Dean
Deputy Director - Mining

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