



OGMCOAL DNR &lt;ogmcoal@utah.gov&gt;

**Re: Hiawatha Bond, Hiawatha Coal Company, Hiawatha Mine Complex, C/007/0011**

2 messages

**Steve Christensen** <stevechristensen@utah.gov>

Fri, Apr 16, 2021 at 4:20 PM

To: Charles Reynolds &lt;charles.reynolds@hiawathacoal.com&gt;

Cc: OGMCOAL DNR &lt;ogmcoal@utah.gov&gt;, Dana Dean &lt;danadean@utah.gov&gt;, Haley Sousa &lt;hsousa@agutah.gov&gt;, Karl Houskeeper &lt;karlhouskeeper@utah.gov&gt;

Charles,

Thank you for the update on the status of reclamation bond replacement for the Hiawatha Mine property. Per your email dated April 13th, 2021, it's our understanding that you have requested an deadline extension to May 30th, 2021 to provide the Division of Oil, Gas and Mining (the Division) with a reclamation bond that meets the requirements of the State of Utah R645 rules.

In consideration of this request, we feel it's incumbent upon the Division to bring the following to your attention:

- 1) Dana Dean-Deputy Director informed Elliot Finley (resident agent for Hiawatha Mine) by letter (dated Nov 3rd, 2021) that the letter of credit issued by Fidelity Funding Company did not meet the requirements of R645-301-860.222 (see attached). The letter established a deadline to replace the performance bond by March 3rd, 2021 (120 days from the date of the letter).
- 2) On March 2nd, 2021, we received a request (via email) to extend the deadline to April 10th, 2021 to provide the replacement bond.
- 3) On March 2nd, 2021, that request was granted (via email) and a new deadline of April 10th was established to replace the performance bond.
- 4) On April 13th, 2021, we received a second request to extend the deadline to replace the Hiawatha Mine performance bond (via email) to May 30th, 2021.

As of today, April 16th, 2021, it's been 164 days since Ms Dean's letter from November 3rd, 2020 that the Hiawatha Mine has not had a performance bond that meets the requirements of the State of Utah R645 rules.

We hereby grant the deadline extension request to May 30th, 2021. However; if an adequate performance bond that meets the requirements of the State of Utah R645 rules has not been provided to the Division by that date, a cessation order will be issued to the company for operating without adequate bond.

Regards,  
Steve

On Tue, Apr 13, 2021 at 2:42 PM Charles Reynolds <charles.reynolds@hiawathacoal.com> wrote:

Steve,

As an update to the progress on Hiawatha Coal Company (HCC) obtaining a replacement bond, Hiawatha has been working with both a bank to obtain an irrevocable letter of credit and Indemnity National Insurance (Cumberland) for a surety bond. Both entities have made an initial review and are processing the applications, but need additional time to determine the amount of collateral necessary to provide the bond. Hiawatha is currently working with both entities as well as third party entities to obtain the bonding approval, and request that the Division allow until May 30, 2021 for Hiawatha to finalize the approval on the bond replacement. We believe it will be within the next 30 days, but ask that the Division allow for any additional unforeseen items that may delay the approval.

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Sincerely,

Charles Reynolds, PE  
Mine Manager

4/20/2021


State of Utah Mail - Re: Hiawatha Bond, Hiawatha Coal Company, Hiawatha Mine Complex, C/007/0011

Hiawatha Coal Company, Inc.  
Cell (801) 857-0399

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Utah Division of Oil, Gas and Mining  
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**ogmcoal@utah.gov** <[ogmcoal@utah.gov](mailto:ogmcoal@utah.gov)>  
To: [stevechristensen@utah.gov](mailto:stevechristensen@utah.gov), [stevechristensen@utah.gov](mailto:stevechristensen@utah.gov)

Tue, Apr 20, 2021 at 7:12 AM

Your message

To: [stevechristensen@utah.gov](mailto:stevechristensen@utah.gov)  
Subject: Re: Hiawatha Bond, Hiawatha Coal Company, Hiawatha Mine Complex, C/007/0011  
Sent: 4/16/21, 5:20:28 PM CDT

was read on 4/20/21, 8:12:18 AM CDT



GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED  
Executive Director

### 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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