



# United States Department of the Interior



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

**AUG 10 2021**

In Reply Refer To:  
3486 (UT-G023)  
UTU-73516 (LMU)  
SL-066490 (Affected Lease)  
SL-069291 (Affected Lease)  
UTU-014218 (Affected Lease)  
UTU-014217 (Affected Lease)  
UTU-0126947 (Affected Lease)

CERTIFIED MAIL – RETURN RECEIPT  
7020 1290 0001 2864 9229

Emery County Coal Resources, LLC  
Lila Canyon Mine  
Attn: Matt Effaw  
P.O. Box 910  
East Carbon, UT 84520

Re: Sealing Longwall District #2

## **DECISION** **NOTICE OF NONCOMPLIANCE**

### **Background:**

On May 5, 2021, the Bureau of Land Management (BLM) sent a letter to Emery County Coal Resources, LLC (ECCR) requesting information on the sealing of longwall district 2 after it was brought to our attention that the district was sealed in October of 2020. ECCR responded to the request on May 14, 2021. That letter provided an approval from BLM to abandon 106 longwall shields in panel #6, dated June 19, 2018. No notification was provided to BLM prior to the October 2020 sealing of the area to allow for a final inspection.

### **Noncompliance:**

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to ECCR for failure to comply with the following lease terms, conditions, and stipulations and the regulations at 43 CFR 3484.1 (c)(7):

- **Noncompliance - Lease Stipulation**
  - **23. Underground Inspection:** All safe and accessible areas shall be inspected prior to being sealed. The lessee shall notify the Authorized Officer in writing 30 days prior to the sealing of any areas in the mine and state the reason for closure. Prior to seals being put into place, the lessee shall inspect the area and document any equipment/machinery, hazardous substances, and used oil that is to be left underground. The purpose of this inspection will be: (1) to provide documentation

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COLORADO, NEW MEXICO, UTAH, WYOMING

for compliance with 42 U.S.C. 9620 section 120(h) and State Management Rule R-315-15, and to assure that certification will be meaningful at the time of lease relinquishment, (2) to document the inspection with a mine map showing location of equipment/machinery (model, type of fluid, amount remaining, batteries etc.) that is proposed to be left underground. In addition, these items will be photographed at the lessee's expense and shall be submitted to the Authorized Officer as part of the certification. The abandonment of any equipment/machinery shall be on a case-by-case basis and shall not be accomplished unless the Authorized Officer has granted a written approval.

- **Noncompliance:** ECCR failed to:
  - Notify the AO in writing 30 days prior to the sealing so that an inspection could take place,
  - Include updated map with location of seals and abandoned equipment,
- **Requirements to Correct Noncompliance:**
  - Schedule meeting within five (5) days of receipt of this decision to discuss possible penalties with the BLM Price Field Office.
  - Submit updated seal and equipment location map, within 14 days of receipt of this letter.

#### **Compliance:**

Failure to comply with this Notice of Noncompliance will result in an immediate order to provide the required information and any documentation to the BLM and ECCR will be subject to the provisions in, 43 CFR 3486.3 including cessation of all operations upon notice (decision) by the authorized officer. In addition, the BLM holds a lease bond and may increase the bond to cover additional liabilities under the Federal coal lease. The operator/lessee shall issue the BLM a report under 43 CFR 3486.3(d) when the noncompliance has been corrected and what was done to correct the noncompliance.

#### **Appeal Rights:**

ECCR has 30 calendar days to appeal to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end 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 pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, 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 of 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 merits.
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted.

(4) Whether the public interest favors granting the stay.

If you have any questions or concerns regarding this decision, please contact Erika Tobin at (435) 636-3605 or [etobin@blm.gov](mailto:etobin@blm.gov).

Sincerely,



Christopher Conrad  
Field Manager

Enclosure

1. IBLA Appeal form 1842-1

cc: BLM State Office (UT-923)

Utah Division of Oil Gas and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114-5801

Manti-La Sal National Forest  
Jeff Salow  
599 West Price River Drive  
Price, UT 84501

bcc: Working File  
Reading File

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

**1. NOTICE OF APPEAL.....**

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that they wish to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

**2. WHERE TO FILE**

NOTICE OF APPEAL.....

Bureau of Land Management  
Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101

WITH COPY TO SOLICITOR.....

Office of the Solicitor  
Department of the Interior  
125 South State Street, Suite 6201  
Salt Lake City, UT 84138

**3. STATEMENT OF REASONS**

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR.....

Office of the Solicitor  
Department of the Interior  
125 South State Street, Suite 6201  
Salt Lake City, UT 84138

**4. SERVICE OF DOCUMENTS**

A party that files any document under 43 CFR Subpart 4, must serve a copy of it concurrently on the appropriate official of the Office of the Solicitor under 43 CFR 4.413(c) and 4.413(d). For a notice of appeal and statement of reasons, a copy must be served on each person named in the decision under appeal and for all other documents, a copy must be served on each party to the appeal (including intervenors). Service on a person or party known to be represented by counsel or other designated representative must be made on the representative. Service must be made at the last address of record of the person or party (if unrepresented) or the representative, unless the person, party or representative has notified the serving party of a subsequent change of address.

**5. METHOD OF SERVICE....**

If the document being served is a notice of appeal, service may be made by (a) Personal delivery; (b) Registered or certified mail, return receipt requested; (c) Delivery service, delivery receipt requested, if the last address of record is not a post office box; or (d) Electronic means such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing. All other documents may be served by (a) Personal delivery; (b) Mail; (c) Delivery service, if the last address of record is not a post office box; or (d) Electronic means, such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing.

**6. REQUEST FOR STAY.....**

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a Notice of Appeal (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your Notice of Appeal (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (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 regulations, 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 the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

### 43 CFR SUBPART 1821-GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Grand Junction, CO and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

#### STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska  
Arizona State Office ----- Arizona  
California State Office ----- California  
Colorado State Office ----- Colorado  
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
and, all States east of the Mississippi River  
Idaho State Office ----- Idaho  
Montana State Office ----- Montana, North Dakota, and South Dakota  
Nevada State Office ----- Nevada  
New Mexico State Office ----- New Mexico, Kansas, Oklahoma, and Texas  
Oregon State Office ----- Oregon and Washington  
Utah State Office ----- Utah  
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Headquarters Office, Bureau of Land Management, 760 Horizon Drive, Grand Junction, CO 81506.

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(Form 1842-1, September 2020)