

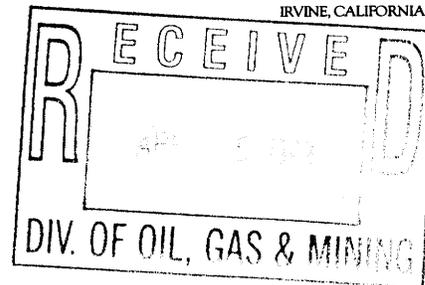
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Internet: ddragoo@swlaw.comMs. Pamela Grubaugh-Littig
Utah Division of Oil, Gas & Mining
P.O. Box 145801
Salt Lake City, Utah 84114-5801CONFIRMATION OF
FACSIMILEApril 2, 1999
Via Facsimile & U.S. Mail

SALT LAKE CITY, UTAH

PHOENIX, ARIZONA

TUCSON, ARIZONA

IRVINE, CALIFORNIA

**RE: Incidental Boundary Change, Horizon Mine Permit ACT/007/020**

Dear Ms. Grubaugh-Littig:

Thank you for your letter dated March 31, 1999, confirming that federal mining plan approval will be required for mining within federal Lease No. UTU-74804 ("Federal Lease"). I believe our correspondence has now come full circle. As stated in our letters dated March 18, 1999, and March 23, 1999, Coal Tunnel Right of Way No. UTU-73227 ("ROW") was incorporated into the Federal Lease, effective September 1, 1998. This is clear from the legal description of the Federal Lease, which includes the ROW and from paragraph 10 of the ROW Stipulations. Since September 1, 1998, operations within the ROW have proceeded under the terms of the Federal Lease. In this regard, the federal Bureau of Land Management ("BLM") has confirmed that, effective September 1, 1998, Horizon Mining, LLC ("Horizon") was relieved of any obligation to pay BLM per ton for coal removed from the ROW and, instead, was obligated to pay a production royalty under the Federal Lease. This has been Horizon's point all along in this discussion, Horizon's right to mine federal coal under the ROW was merged into the Federal Lease. Therefore, operations within this area are not entering into federal coal for the first time. Pursuant to 30 CFR § 746.18(d)(4), federal mine plan approval is required only for "any change which would extend coal mining and reclamation operations onto leased federal coal lands for the first time . . ." (emphasis added).

Horizon has been operating under the Federal Lease since September 1, 1998, under the supervision of the BLM. Operations have proceeded under the assumption that mine permit No. ACT/007/020 applied to the portion of the Federal Lease formerly included within the ROW. If this assumption is incorrect, please let me know immediately so that Horizon may respond appropriately.

Very truly yours,

Denise A. Dragoo

DAD:jmc:79162

cc: Larry Jones
Mark Wayment