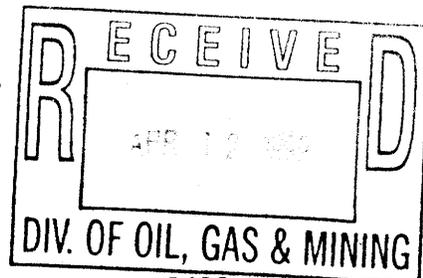




United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Price Field Office
125 South 600 West
Price, Utah 84501



3486
UTU-74804
(UT-070)

APR - 8 1999

Hand Delivered

Denise Dragoo
Resident Agent, Horizon Mining, LLC.
Snell and Wilmer
111 East Broadway, Suite 900
Salt Lake City, Utah 84111

FRD PFO 5
ACT/007/000 #28
Copy Mary Ann,
Daron, Joe, Fran

Notice of Noncompliance

The Bureau of Land Management (BLM) hereby issues this notice of noncompliance to Horizon Mining, LLC, for mining on a Federal coal lease (UTU-74804) without a mining plan approved from the Secretary of Interior pursuant to the Mineral Leasing Act of 1920, as amended (30 USC 181 et,seq), in the 1st Left, North Mains section of the Horizon Mine. The authority to issue this noncompliance is under 43 CFR 3486.3. This notice, along with a separate cessation order, is to prevent further mining in Federal coal lease UTU-74804 without specific approval.

Horizon has mined across the boundary from private coal into Federal coal lease UTU-74804 in the 1st Left, North Mains section located in the NE1/4 NW1/4 of sec. 17, T. 13 S., R. 8 E., SLBM. A mining plan for this Federal coal lease has not been approved by the Secretary of the Interior, and no person shall conduct coal mining and reclamation operations on lands containing leased Federal coal until the Secretary has approved the Mining Plan. This is a violation of the Mineral Leasing Act of 1920, as amended, including lease term #1 and special stipulation #3, which requires compliance with the Surface Mining Control and Reclamation Act of 1977.

Before this notice and the cessation order can be lifted and mining allowed, Horizon must obtain Federal mine plan approval from the Secretary of the Interior which includes a resource recovery and protection plan (R2P2) as required by 43 CFR 3482.1(b). Failure to comply with this order will result in further enforcement action which could include lease bond forfeiture and/or initiation of lease cancellation proceedings.

Appeal Rights

This notice of noncompliance may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations 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 days from receipt of this decision. 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 Board, 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 each Office of the

Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with his office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining Stay

Except as otherwise provided by law or other pertinent regulation, 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 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; and,
- (4) Whether the public interest favors granting the stay.



Richard L. Manus
Field Manager

cc: Horizon Mining, LLC
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1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733
Mine Health and Safety Administration
215 East Main
Price, Utah 84501