

NON-FEDERAL

PERMIT
ACT/007/020

July 14, 1999

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple
Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801

This permit, ACT/007/020, is issued for the State of Utah by the Utah Division of Oil, Gas and Mining (Division) to:

Lodestar Energy, Inc.
333 West Vine Street, Suite 1700
Lexington, Kentucky 40507-1628
(606) 255-4006

for the Horizon No. 1 Mine. A Performance Bond is filed with the Division in the amount of \$711,000.00, payable to the State of Utah, Division of Oil, Gas and Mining.

- Sec. 1** **STATUTES AND REGULATIONS** - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.
- Sec. 2** **PERMIT AREA** - The permittee is authorized to conduct underground coal mining activities on the following described lands within the permit area at the Horizon Mine situated in the State of Utah, Carbon County, and located in:

Township 13 South, Range 8 East, SLM

- Section 8:** SE1/4SW1/4, SW1/4NW1/4SW1/4SE1/4,
 W1/2SW1/4SW1/4SE1/4
- Section 17:** NW1/4NE1/4, S1/2NW1/4, N1/2NW1/4SW1/4,
 NE1/4SW1/4, NW1/4SE1/4, N1/2SE1/4SW1/4,
 N1/2SW1/4SE1/4, W1/2W1/2SW1/4NE1/4

This legal description is for the permit area of the Horizon Mine, including the coal right of way, for a total of 317.5 acres. The permittee is authorized to conduct underground coal mining activities and related surface activities on the foregoing described property subject to the conditions of all applicable conditions, laws and regulations.

- Sec. 3** **COMPLIANCE** - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.
- Sec. 4** **PERMIT TERM** - This permit becomes effective on July 14, 1999 and expires on October 11, 2001.
- Sec. 5** **ASSIGNMENT OF PERMIT RIGHTS** - The permit rights may not be transferred, assigned or sold without the prior written approval of the Division Director. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13{e} and R645-303-300.
- Sec. 6** **RIGHT OF ENTRY** - The permittee shall allow the authorized representative of the Division, including but not limited to inspectors, and representatives of the Office of Surface Mining Reclamation and Enforcement (OSM), without advance notice or a search warrant, upon presentation of appropriate credentials and without delay to:
- (a) have the rights of entry provided for in 30 CFR 840.12, R645-400-220, 30 CFR 842.13 and R645-400-110;
 - (b) be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100 and R645-400-200 when the inspection is in response to an alleged violation reported to the Division by a private person.
- Sec. 7** **SCOPE OF OPERATIONS** - The permittee shall conduct underground coal mining activities only on those lands specifically designated as within the permit area on the maps submitted in the approved plan and approved for the term of the permit and which are subject to the performance bond.
- Sec. 8** **ENVIRONMENTAL IMPACTS** - The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to:
- (a) Any accelerated or additional monitoring necessary to determine the nature of noncompliance and the results of the noncompliance;

- (b) Immediate implementation of measures necessary to comply; and
- (c) Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 9 DISPOSAL OF POLLUTANTS -The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

Sec. 10 CONDUCT OF OPERATIONS - The permittee shall conduct its operations:

- (a) In accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
- (b) Utilizing methods specified as conditions of the permit by the Division in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 11 EXISTING STRUCTURES - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.

Sec. 12 RECLAMATION FEE PAYMENTS - The operator shall pay all reclamation fees required by 30 CFR Part 870 for coal produced under the permit, for sale, transfer or use.

Sec. 13 AUTHORIZED AGENT - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 14 COMPLIANCE WITH OTHER LAWS - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq.), and the Clean Air Act (42 USC 7401 et seq.), UCA 26-11-1 et seq., and UCA 26-13-1 et seq.

- Sec. 15 PERMIT RENEWAL** - Upon expiration, this permit may be renewed for areas with the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.
- Sec. 16 CULTURAL RESOURCES** - If, during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify the Division. The Division, after coordination with OSM, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by Division within the time frame specified by Division.
- Sec. 17 APPEALS** - The permittee shall have the right to appeal as provided for under R645-300-200.
- Sec. 18 SPECIAL CONDITIONS** - The permittee shall comply with the special conditions in Attachment A.

The above conditions (Secs. 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of the Division and the permittee at any time to adjust to changed conditions or to correct an oversight. The Division may amend these conditions at any time without the consent of the permittee in order to make them consistent with any federal or state statutes and any regulations.

THE STATE OF UTAH

By: _____

Date: _____

*Paul J. [Signature], Associate Director,
Mining*

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

PERMITTEE (Authorized Representative)

By: _____

Date: _____

Attachment A
Conditions

- Condition #1 - Lodestar Energy, Inc. must assume responsibility for and comply with all of the conditions and orders of the Division that have not been completed by Horizon Mining, LLC. Lodestar Energy, Inc. must adequately address Division Order ACT/007/020-99B and midterm review requirements as currently specified and in accordance with their respective timeframes.
- Condition #2 - Lodestar Energy, Inc. must obtain requisite approvals and permits prior to the removal of any leased federal coal from Federal Coal Lease U-74308.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

PERMITTEE

Horizon Mine
Horizon Mining, LLC
c/o Snell & Wilmer
111 East Broadway, Suite 900
SLC, Utah 84111

ORDER & FINDINGS
OF
PERMIT DEFICIENCY

PERMIT NUMBER ACT/007/020
DIVISION ORDER # 99B

PURSUANT to R645-303-212, the DIVISION ORDERS the PERMITTEE, Horizon Mining, LLC, to make the requisite permit changes enumerated in the findings of Permit Deficiency in order to be in compliance with the State Coal Program. These findings are to be remedied in accordance with R645-303-220.

FINDINGS OF PERMIT DEFICIENCY

A review of the current Mining and Reclamation Plan and field investigations have revealed permit deficiencies. In summary, the Division finds under:

R645-301-500. Information in the plan is not current, nor clear and concise. In order for the mine to be in compliance, Horizon Mining must provide maps and text that are consistent and that correlate throughout the plan.

ORDER

Horizon Mining, LLC is ordered to make the requisite permit or Mining and Reclamation Plan (MRP) changes:

1.a. Update the text of the operation plan of the current MRP to accurately describe the coal conveyance system, separation facilities, coal storage areas, coal mine waste handling and storage facilities area, other materials handling and storage areas, snow storage areas and all haulage areas; and to clearly show on a map all of the preceding in accordance with R645-301-500.

- 1.b. Update the text and maps to show the reclamation plans for each of the preceding items if different than the current reclamation plan, or if the current plan does not include the preceding items in 1.a. in accordance with R645-301-500.
2. If coal mine waste is to be produced at the Horizon Mine, state the location and volume of temporary and final storage of coal mine waste at the Horizon Mine in accordance with R645-301-500.
3. Amend the text of Chapter 3 of the Horizon MRP, Section 3.3, p. 3-6 and 3-7, to clarify Horizon Mining's current MRP designations of "coal", "rocky coal", "high ash coal", "waste rock" and "coal waste materials" as to how they fall under Utah Coal Mining Rules R645 et seq of "coal", "coal mine waste", "underground development waste", or "coal processing waste". Horizon Mining must further clarify its criteria for underground development waste, specifically referencing a) Mine Safety and Health Administration (MSHA) standards regarding storage of underground development waste in the Horizon Mine workings prior to bringing the waste to the surface, and b) ASTM standards distinguishing high ash coal from underground development waste.
4. Demonstrate that plans provided in response to Items 1 and 2 of this Order are in compliance with Horizon Mine's Utah Air Quality Permit.

Time to comply with Order:

Horizon Mining, LLC is ordered to submit a complete and adequate application for permit change to address the above ordered items, numbers 1- 4, by June 4, 1999.

Ordered this 12th day of May, 1999, by the Utah Division of Oil, Gas, and Mining.



Lowell Braxton, Director
Division of Oil, Gas and Mining