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United States Department of the Interior

JUN 26 2000

BUREAU OF LAND MANAGEMENT

DIVISION OF OIL, GAS AND MINING

Price Field Office
125 South 600 West
Price, Utah 84501

2890/9230
UTU-73227
UTU-74804
(UT-070)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Certified No. Z 182 430 788

JUN 22 2000

TRESPASS DECISION

Horizon Mining LLC
c/o Denise A. Dragoo, Esq.
Snell & Wilmer
111 East Broadway, Suite 900
Salt Lake City, Utah 84111

Copy Pam
Incoming
ACT/007/020

Dear Ms. Dragoo:

On June 2, 2000, you were advised, by certified mail, that the United States of America, through the Bureau of Land Management, had instituted trespass proceedings against you for the unauthorized use of public land pursuant to Title 43 of the Code of Federal Regulations, parts 2801.3 and section 501 of the Federal Land Policy and Management Act of 1976 (90 Stat., 2776, 43 U.S.C. 1761).

The purpose of our letter was to provide you time to provide information or evidence to assist in the equitable adjudication of the Bureau's trespass claim against you. Your immediate response to the notice was greatly appreciated.

The BLM believes that approximately 15,690 tons of coal were mined in trespass. We also believe this incident to be innocent trespass as per 43 CFR 9239.5-3 for a number of reasons. Horizon Mining, LLC had identified the need for the amended ROW and had submitted an application amending the ROW to include the area that was mined in trespassed prior to any mining of trespass coal. Horizon Mining, LLC had entered into informal conversations with the BLM about amending the ROW. These informal conversations with the BLM took place prior to any trespass coal being mined. Horizon Mining, LLC did apply for a lease by application and did become the successful bidder and lessee of the Federal coal that was trespassed.

As a resolution to this innocent trespass, as per 43 CFR 9239.5-3(a)(1) the value of the coal will be the "value of the coal in place before severance." The BLM has determined that the "value of the coal in place before severance" to be \$1.50 per ton. The payment for mining 15,650 tons in trespass will be \$25,180.40. Your liability is summarized on the enclosed bill and spreadsheet.

Within 30 days of receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Interior board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error.

Dated this 22 day of June, 2000

Sincerely,

MARK E. BAILEY

FOR Richard L. Manus
Field Manager

3 Enclosures

1. Horizon Coal Trespass Tons (spreadsheet)
2. Bill for Collection, Form 1371
3. Form 1842-1, Appeals

cc: State Office, Utah (UT-930) (w/o encl.)
Utah Division of Oil, Gas and Mining (w/o encl.)
1594 West North Temple, Suite 1210
Salt Lake city, Utah 84114-5801