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C/O 15/025 Incoming
cc: Dana



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
<http://www.blm.gov>

JUN 08 2009

IN REPLY REFER TO:

3480
UT (923)
UTU-38727
UTU-61049

Certified Mail – Return Receipt Requested 7008140000037060522

C.O.P. Coal Development Company
J. O. Kingston
53 West Angelo Avenue
Salt Lake City, UT 84115

Re: Non Payment of Royalties, Federal Coal Lease UTU-38727 and UTU-61049 for February and March 2009.

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this Notice of Non-compliance to C.O.P. Development (Lessee) for failure to comply with Section 2 (a) Production Royalties of the referenced Federal Leases. The Minerals Management Service has notified BLM of the non-payment according to the Table of Royalties Due found at Enclosure 1. Production and royalties have not been reported to the Minerals Management Service for April 2009.

Requirements to Correct the Mining Plan Noncompliance:

Within 15 days of receipt of this letter, C.O.P. Development must make written, certified contact the Mineral Management Service (MMS) in writing, at:

Solid Minerals & Geothermal Compliance Asset Management
Attn: John J. Hovanec, Program Manager
P.O. Box 25165, MS390B2
Denver, Colorado 80225-0165
303-231-3312.

This contact will be made to make arrangements for payment of the federal royalties owed. BLM must receive a copy of the certified letter to MMS from C.O.P. Development within 30 days of receipt of this letter.

RECEIVED

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DIV. OF OIL, GAS & MINING

Compliance: Failure to comply with this Notice of Non-Compliance could result in further action by BLM and MMS which may include but not be limited to, lease bond forfeiture and/or lease cancellation proceedings.

Appeal Rights:

You have 15 and 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, 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 you 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 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 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.

If you have any questions, please contact either Stan Perkes (801-539-4036) myself at (801-539-4038).

/s/J D McKenzie

Jeff McKenzie
Acting, Chief, Solid Minerals Branch

Encl.

- 1- Table of Royalties Due
- 2- Form 1842-1

cc: PFO w/o Encl.

Utah Division of Oil, Gas, and Mining (Attn. Daron Haddock), 1594 West North Temple, Suite 1210, Box 145801, Salt Lake City, UT 84114-5801, w/o Encl.

Hiawatha Coal Company, P.O. Box 1240, Huntington, UT, 84528, with Encl. 1

Kenneth Ruston (CW Mining Trustee): c/o Christopher Jones, Attorney for Bankruptcy Trustee, C.W. Mining Company, City Center 1, Suite 900, 175 East 400 South, Salt Lake City, UT, 84111-2357, w/o Encl.

Files - UTU-38727
UTU-61049

Chron File

Royaltynonpayment06-04-09SP-SA