



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Price Field Office
125 South 600 West
Price, Utah 84501

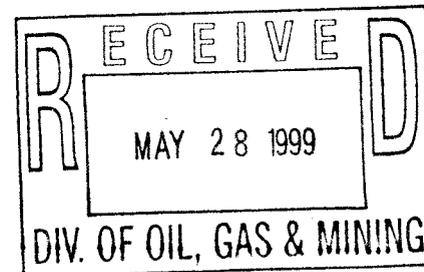
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UTU-68082
(UT-070)

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MAY 25 1999

Mr. Laine Adair
General Manager
Genwal Resources, Inc.
P. O. Box 1420
Huntington, Utah 84528

ACT/015/032 #2
COPY Pam



Re: Notice of Trespass, Mining of Unleased Federal Coal, Crandall Canyon Mine

Dear Mr. Adair:

The Bureau of Land Management (BLM) hereby issues to Genwal Resources a notice of trespass for the unauthorized mining and severance of unleased Federal coal beyond the east boundary of coal lease UTU-68082, Genwal Resources, lessee. This notification has been delayed due to ongoing discussions concerning this area due to the state exchange process. A background of this incident is given to document our findings and our rationale for resolution.

Genwal was issued Federal coal lease UTU-68082 on March 1, 1994. This lease was added to existing Genwal holdings of Federal and state coal leases as part of the Crandall Canyon Mine. Mining proceeded into this lease as to the approved mining plan. As the development of longwall panel #6 proceeded east to the lease boundary (mid-section line of Section 1, T. 16 S., R. 6 E.), Genwal requested from BLM a variance to the 50-foot property barrier. Genwal requested mining to the lease boundary, as the other side is part of Genwal's requested lease by application and the coal in that area is thinning to the east, with little minable coal past the boundary. BLM granted the modification on February 4, 1997, and mining occurred soon thereafter. These actions were based on the half section line in Section 1 being the lease boundary as portrayed on all certified mine maps.

In preparing maps and documents for the Mill Fork Coal Lease Tract sale, BLM personnel noted a potential discrepancy with the lease boundary line in Section 1. While overlaying the mine workings and their respective coordinates with coordinates from the Geographic Coordinate Data Base (GCDB) system, it appeared that the mine workings for longwall panel #6 had extended over the boundary. Though GCDB is not exact and has some margin of error, the mine workings had extended beyond the GCDB boundary line greater than that range of error.

Informal conversations were then held with you and your staff to alert you of a possible mining trespass event. Genwal went ahead and submitted to this office an independent mine resurvey and recalculation of the property boundary. The report shows that the previous property boundary line was in error and part of the bleeder entries of longwall panel #6 were mined across the proper boundary line. We have reviewed this information and agree with the findings.

In summary, Genwal has mined over the half section line of Section 1, T. 16 S., R. 6 E., SLM, which forms the boundary line of Federal coal lease UTU-68082. The BLM agrees that approximately 19,100 tons 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. The boundary line in question was established by calculation by Genwal some years ago from available records and has been used on certified mine maps as the official property line. Section 1 is irregular sized and lotted and none of the section corners have been found, making the calculation difficult for exact state plane coordinates. Genwal has applied for the land east of the boundary called the Mill Fork Coal Lease Tract. Genwal was making an honest effort to maximize the coal recovery on the existing lease tract. Also, the coal in the bleeder entries of panel #6 was thinning to the east and it is doubtful that future mining would ever get close to these bleeders entries and therefore would not be a detriment to another operator should they be the successful bidder for the Mill Fork Lease Tract.

As a resolution to this trespass, Genwal is to mine no further east in panel #6. This is a moot point as the panel has been mined and sealed as witnessed by normal BLM mine inspections and cannot be further accessed through the caved panel. To resolve the amount of payment for innocent trespass, Genwal is to submit for our review the costs associated with mining the entries and crosscuts in question for us to "value the coal in place before severance" as per 43 CFR 9239.5-3 (a) (1). After resolution of the "value of the coal," Genwal will be issued a bill for payment of the coal mined in trespass.

If you disagree that you have mined in trespass or the resolution of this trespass, you have the right to appeal this notice, in part or full, 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 (at the above address) within 30 days from the 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) (request) for a stay (suspension) 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 petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in 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 the stay is granted or denied,
- (2) The likelihood of the appellant's success of the merits.

- (3) The likelihood of immediate and irreparable harm if the stay is not granted,
- (4) Whether the public interest favors granting the stay.

Sincerely,

/s/ THOMAS E. RASMUSSEN

Richard Manus
Field Manager

Enclosure
Form 1842-1

cc: State Office, Utah (UT-930) (w/o encl.)
Manti-LaSal National Forest (w/o encl.)
599 West Price River Drive
Price, Utah 84501
Utah Division of Oil, Gas and Mining (w/o encl.)
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801
Utah School and Institutional Trust Lands Administration (w/o encl.)
675 East 500 South, Suite 500
Salt Lake City, Utah 84102-2818