DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FORT BELVOIR, VIRGINIA 22060-6221

IN REPLY REFER TO DG

December 30, 2003

Ruby Coal Company of London, Inc.
1670 Highway 192E
London, KY 40741

Re: Notice of Proposed Debarment

Ladies & Gentlemen:

On behalf of the Defense Logistics Agency (DLA), I propose you for debarment from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs or from purchasing surplus Government property under the Federal Property and Management Regulations. I have initiated this action pursuant to the authority of, and the debarment procedures contained in, the Federal Acquisition Regulation (FAR) Subpart 9.4. For your information, I have enclosed copies of FAR Subpart 9.4, the Defense FAR Supplement (DFARS) 209.4 and Appendix H, 32 C.F.R. Part 25, and DLA's Debarment and Suspension procedures in Defense Logistics Acquisition Directive 4105, along with the corresponding web site addresses.

The attached Memorandum of Decision provides the basis for the proposed debarment. Effective throughout the executive branch of the Federal Government, the proposed debarment applies to both procurement and sales contracting and has the following consequences:

1. The company name, Ruby Coal Company of London, Inc., will be published in the List of Parties Excluded From Federal Procurement and Nonprocurement Programs, a publication of the General Services Administration that contains the names of contractors debarred, suspended, proposed for debarment, or declared ineligible by any agency of the Federal Government. You may also access the list on the Internet at the web site shown in Enclosure 1.

2. Offers will not be solicited from, contracts will not be awarded to, existing contracts will not be renewed or otherwise extended for, and subcontracts requiring Government approval will not be approved for the company by any agency in the executive branch of the Federal Government unless the head of the agency taking the contracting action or a designee states in writing the compelling reason for continued business dealings between you and the agency.

3. The company may not conduct business with the Federal Government as an agent or representative of other contractors, nor may it act as an individual surety for other contractors.

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4. No Government contractor may award the company a subcontract equal to or in excess of $25,000 unless there is a compelling reason to do so and the contractor first notifies the contracting officer and further complies with the provisions of FAR 9.405-2(b).

5. No agency in the executive branch shall enter into, renew, or extend primary or lower-tier covered transactions in which the company is either a participant or principal, unless the head of the agency grants an exception in writing. (Covered transactions are defined at 32 C.F.R. Section 25.110).

6. The company may not act as an agent or representative of other participants in federal assistance programs.

7. The company's affiliation with or relationship to any organization doing business with the Government will be carefully examined to determine the impact of those ties on the responsibility of that organization to be a Government contractor or subcontractor.

Within 30 calendar days after receipt of this notice, you or a representative on your behalf may submit, either in person or in writing, or both, information and argument in opposition to the proposed debarment. If you designate a representative to respond on your behalf, please notify my counsel in writing of the identity of the representative. The designation should specifically state the names and addresses of all individuals or companies the designee has the authority to represent in this matter.

Your submission, if any, should include any specific information that may raise a genuine dispute over facts material to the proposed debarment. If it is found that the information or argument submitted raises a genuine dispute over material facts, fact-finding may be conducted to determine the disputed facts. Facts proved by conviction or civil judgment, however, are not subject to dispute in this debarment proceeding.

This debarment proceeding has been initiated on the basis of an administrative record. A copy of the record will be furnished upon request. Any written information you submit will become a part of the administrative record. Information or argument presented orally will be considered part of the administrative record only to the extent such information and argument is submitted in written form.

The determination whether or not to debar you is discretionary and will be made on the basis of the administrative record, together with any written materials submitted for the record by the Government or you during the period of proposed debarment.

If debarment is imposed, the limitations on contracting and subcontracting described in Paragraphs 1 through 7 above will continue to apply and the company name will continue to be published in the list entitled List of Parties Excluded From Federal Procurement and Nonprocurement Programs. Your status, however, will be changed to reflect that you are debarred.

Any communications regarding this matter should be directed to my counsel, Normand Lussier, at (703) 767-5032. Any written submission should be forwarded in duplicate to him at the Office of General Counsel (DG), Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, Virginia, 22060-6221. One copy of each written submission should be sent to Christine Poston, Defense Energy Support Center, Attn: DESC-G, 8725 John J. Kingman Road, Suite 4950, Fort Belvoir, Virginia, 22060-6222.

Sincerely,

M. SUSAN CHADICK
Special Assistant for
Contracting Integrity

Enclosures