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Pam Gubash Sitly

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155

RECEIVED
MAY 15 1998
DIV. OF OIL, GAS & MINING

In Reply Refer To:
3485
U-017354
U-067498
U-044076
UTU-70018
(UT-932)

MAY 12 1998

ACT/007/001
#2

CERTIFIED MAIL--Return Receipt Requested

DECISION

White Oak Mining & Construction Co., Inc.	:	Coal Leases
c/o Denise A. Dragoo	:	U-017354, U-044076,
Van Cott, Bagley, Cornwall & McCarthy	:	U-067498 and UTU-70018
P.O. Box 45340	:	
Salt Lake City, Utah 84145-0340	:	

Royalty Rate Reduction For U-017354 Approved
Royalty Rate Reduction For U-044076, U067498, and UTU-70018 Denied

On July 18, 1997, White Oak Mining & Construction Co., Inc. (White Oak) filed for a royalty rate reduction from 8 percent to 5 percent for the duration of production on the following coal leases: U-017354, U-067498, UTU-70018, and sublease U-044076.

White Oak's application was submitted under Category 1(a) in accordance with the Bureau of Land Management's Royalty Rate Reduction Guidelines for Solid Leasable Minerals. A lessee qualifies for a royalty rate reduction under this category when adverse geologic and engineering conditions make the solid leasable mineral resources identified in the application economically unrecoverable at the lease royalty rate using current standard industry operating practices. White Oak's application makes a secondary reference to Category 1(b) of the guidelines for which a lessee qualifies when the lease royalty rate makes the solid leasable mineral resources identified in the application likely to be bypassed because they are less economically recoverable than resources on non-Federal leases that are part of the near term mining sequence within the same operation.

The application is for a royalty rate reduction from 8 percent to 5 percent of the selling price of the coal for all Federal leases in the White Oak Mine Complex, namely U-017354, U-067498, UTU-70018, and sublease U-044076. White Oak claims a royalty reduction for the duration of the production from these leases will encourage the greatest ultimate recovery of the resource and is in the interest of the conservation of the resource.

The Bureau of Land Management analysis in the enclosed Geologic and Engineering Report concludes that known adverse geologic and engineering conditions exist in lease U-017354 in the current mining area and should persist in the southern portion of this lease. A lease modification was recently granted to add 160 acres to this lease. The area of lease modification is in the projected adverse mining condition area. We recommend that the royalty reduction apply to this lease modification area as well as the original lease area. It is our recommendation that the royalty rate for the other leases in the mine area remain at 8 percent. The other areas of the mine do not have the same adverse conditions or the conditions are not known. Further information would need to be submitted for a determination to be made as detailed in the enclosed report.

It is concluded that all of Federal coal lease U-017354, including the recently modified parcel, meets the criteria for a royalty rate reduction under Category 1(a) with secondary consideration for Category 1(b) under expanded recovery. Therefore, White Oak is granted a royalty rate reduction for this lease from 8 percent to 5 percent. This reduced royalty rate shall become effective on August 1, 1997, the first day of the month after the date that a complete application for a royalty rate reduction was submitted (July 18, 1997) and shall remain in effect until the lease is completely mined out or until the adverse conditions no longer exist. The royalty rate for the other leases in the mine area shall remain at 8 percent until further information is provided which warrants a reduction.

Excess royalties paid on production between the submittal of the royalty rate reduction application and the approval date shall be recouped as a credit from prospective production royalty payments from Federal lease U-017354. In no case shall a lessee be entitled to or ever receive a cash refund once a royalty rate reduction has been approved. A lessee may recoup past royalty overpayments only from succeeding period royalty obligations for the same lease account for which a royalty rate reduction has been granted. Reporting of royalty recoupments shall be made in accordance with the Minerals Management Service's (MMS's) payor handbook.

The MMS has recently supplied verification that lease U-017354 is in good standing. The Utah Division of Oil, Gas and Mining as well as the Washington Office of the Bureau of Land Management have sent letters of concurrence to the royalty rate reduction for lease U-017354. Washington also concurs with the denial of a royalty rate reduction for Federal leases U-067498, UTU-70018, and sublease U-044076.

Lessees receiving a reduced royalty rate under this category must submit , on or before the anniversary date (in this case, August 1st), a certified statement that the conditions that justified the granting of the reduction continue to exist. Failure to submit this annual certification shall result in the immediate termination of the royalty rate reduction, at which time the production royalty rate shall automatically revert to the production royalty rate specified in the lease.

Royalty rate reductions approved under this category are transferable with the lease, provided all lease payments are current and the lease accounts are in good standing.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 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 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, and

(4) Whether the public interest favors granting the stay.

/S/ Linda S. Colville

FOR G. William Lamb
State Director

Enclosures
1. Geologic and Engineering Report
2. Washington Concurrence
3. State of Utah Concurrence

cc: White Oak Mining & Construction Co., Inc. (w/encl.)
Scofield Route
Helper, Utah 84526

bc: MMS, Solids (w/encl.)
UDOGM (w/encl.)
Price Coal Office (Attn: Steve Falk) (w/encl.)
Manti-LaSal National Forest (w/encl.)

GEOLOGIC AND ENGINEERING REPORT

FEDERAL ROYALTY RATE REDUCTION APPLICATION

WHITE OAK MINING AND CONSTRUCTION CO.

Prepared By:
Price Field Office
Bureau of Land Management

Introduction

White Oak Mining and Construction Company (White Oak) has applied for a Federal royalty rate reduction for existing Federal coal leases UTU-70018, U-017354, U-067498, and sublease U-044076, all part of the White Oak Mine Complex. The application was received on July 18, 1997, with a request for a reduction of royalty from 8 to 5 percent under Category 1, Expanded Recovery, from the Royalty Rate Reduction Guidelines based on conservation of the resource and increased recovery of the coal. The request is for all the leases for the duration of their production. This report analyzes the conditions at the mine and recommends action on the application.

Background

The White Oak Mine complex is located in Whisky Canyon, a south tributary of Eccles Canyon, three miles south of the town of Scofield, Utah. The mine operates in two coal seams accessed by drifts at the outcrop in Whisky Canyon. Mining in the Upper O'Connor Seam is in the White Oak #1 Mine and mining in the Lower O'Connor Seam is in the White Oak #2 Mine. The property consists of all or parts of three Federal leases and some private coal. Mining began in 1976 under Valley Camp of Utah, Inc. In February of 1993, Valley Camp closed the mine, citing uneconomic mining conditions and loss of contracts after a couple of years of sporadic shutdowns and reductions in force. In September of 1993, White Oak bought the property and reopened the mine soon thereafter. Mining has continued since that time under an approved mining and reclamation plan, with the associated resource recovery and protection plan. Mining has been concentrated in the lower seam (Mine #2) since the time of acquisition and much of the northern part of the mine is mined out. All mining is now concentrated on extending working in the lower mine to the south. Mining conditions have deteriorated and production rates have decreased in this south area. A number of faults have been encountered. Reductions in force through this year has reduced the work force from around 110 employees to near 60 employees. This is the status of the mine at the this time.

The BLM has inspected the mine on a number of occasions and has evaluated the proposal. Our evaluation follows:

Geologic Setting

The White Oak Mine is situated along the west slope of Pleasant Valley in the Wasatch Plateau coal field. Pleasant Valley extends from Scofield Reservoir to the north to the town of Clear Creek to the south, the valley being the graben of the Pleasant Valley Fault zone. Coalbeds outcrop on these west slopes in the Blackhawk Formation of late Cretaceous Age. The sandstones and shale of this formation were deposited as part of a continental-marginal marine depositional system and contains several coalbeds in the area. Two beds are considered minable--the Upper O'Conner and Lower O'Conner. Both these beds have thicknesses of greater that 15 feet in much of the mine area, though both thin to the south and the lower bed splits to the southwest. Interburden ranges from 100 feet in the north to less that 30 feet to the south.

Adverse Mining Conditions

The structure of the coal block, where mining first began in the north end of the property, dictated mining in a south-west direction to parallel the two large faults, the Connelville Fault to the west, and the O'Conner Fault to the east. As mining progressed south of a prominent igneous dike and crossed the lease line into U-017354, a number of small north-south faults were encountered. These faults appear to be a series of sympathetic faults creating a number of horst-graben structures that begin south of the dike and increase in displacement to the south. The orientation of these faults are offset of the Connelville and O'Conner Faults so that the development mining has intersected them at oblique angles. This results in mining entries in the fault zone for some distances for the entire entry system to cross the fault. Mining conditions in the fault zone are poor as the zone is often fractured and filled with gouge.

White Oak has been mining south in the #2 mine in the lower seam since they bought the property in 1993. After mining through the dike and developing south, six different faults have been crossed. Displacements of the faults have ranged from 2 feet up to 30 feet. These areas are numbered on the attached mine map. All areas have been inspected by BLM engineers, with the mining conditions verified. Without exception, White Oak has had to install additional roof support devises and structures to stabilize the roof while crossing the fault zone, some of the items being large I-beams and steel set arches.

Other problems are evident in this southern area. The lower mine (#2 in the Lower O'Conner Seam) had advanced south from the north lease line of U-017354 and the dike under mine works of the upper #1 mine. The previous owners of the mine developed the upper mine, but had to stop development due to these small faults and increased horizontal stresses that have been documented in the upper mine. Though White Oak has superimposed the mine development in the lower mine to the old mine works in the upper mine, these horizontal stresses are still evident. Roof conditions were so poor that the South Mains were abandoned and offset main entries called South Sub-Main were mined alongside.

Economic Considerations

The combination of these conditions have made further advance to the south problematic. Under standard industry practices and like situations at mines in the area, these reserves to the south could be considered uneconomic. Production rates while crossing some of the offset faults have been reduced on the order of 50 percent as verified by monthly production figures and mine maps. The shear number of faults crossed in the last year have made reduced production rates extend into most of the year. A decrease in the rate of coal production will have a marked effect on the cost of coal. Fixed costs remain the same but revenues decrease. Reduction in revenue from decreased production and sales is a prime economic factor in light of the very small profit margin per ton of coal for all the mines in the area. Add the large increase in fixed costs for the roof support fixtures for the fault crossings, and profitable mining in this area is questionable.

Increased Recovery

It is evident that the conditions now encountered will persist to the south as mining follows the trend of these sympathetic faults. The reserves remaining southward to Huntington Canyon are isolated by the two major faults (Connelville and O'Conner) that extend down to the outcrop in Huntington Canyon. If White Oak does not mine these reserves, they will be bypassed. They cannot be accessed from the east or west due to the two large faults nor is there enough reserves in between the faults to open another mine from Huntington Canyon, which is not desirable from an environmental concern. If mining were to stop now, an estimated 5 million tons of recoverable coal would be bypassed and lost to development.

In part of this south mining area, the coal in a small graben area bounded by two sympathetic faults is now jeopardized because the displacement of the fault is large enough to require rock tunnels to cross the fault from coal to coal. The 4th East off South Sub-main section encountered this north-south fault and estimated the displacement of the fault at 25 feet. This same fault was crossed previously further north in the South Sub-main section between 2nd and 3rd East (see attached map labeled area A). The displacement at this location was only a few feet. Further south, the 4th East entries have hit this same fault, but the displacement here is down 30 feet. However, at this location, White Oak has an opportunity to cross the fault and access the upper seam with an incline rock slope across a 15-foot displacement fault. This would require a 180-foot rock slope at an 8 percent slope. At current costs for driving rock tunnels at $700 to $1000 per linear foot, and three entries across, White Oak would have to spend over $400,000 to access these reserves. With an estimated recoverable reserve in the graben area of 500,000 tons, White Oak would be spending an extra $1 per recoverable ton to access these reserves. A reduction in royalty of nearly $.50 per ton would help offset the cost and make this coal block more attractive to recovery.

Other Factors

If White Oak does not proceed in mining south from current sections, all minable coal between the two large faults south to the outcrop in Coal Canyon will be lost to development. No other access is practical as the outcrop to the south is in sensitive environmental areas, the coal thickness and quality is unknown, and the amount of coal is insufficient to justify large capital expenses for a new portal or rock slopes across faults. Also, continued development south will put the mine workings in the lower seam below undeveloped mine areas south of the furthest development in the upper seam (#1 mine) and eliminate some of the multi-seam stresses. It would allow White Oak to cross sympathetic faults and ramp up to the upper seam and mine the upper seam without trying to rehabilitate old works in the #1 mine to access the Upper O'Conner reserves. It is in the interest of conservation of the coal resource to keep White Oak mining south.

There are increasing pressures on White Oak to further reduce costs. This solely continuous miner mine is competing strictly with high production rate longwall mines in the area. White Oak has had major reductions in force to reduce costs. It is known within this coal region that White Oak is experiencing financial difficulties. Though not documented, it is reported widely among the coal operators and vendors that White Oak is having troubles paying current bills, as well as the fact that royalty payments to Minerals Management Service had been in arrears. There are sufficient pressures for White Oak to leave the south area and finish all mining in the north area near the portal for final retreat. Some remaining coal in the north is private coal leased from Carbon County with $0.15 per ton royalty rates. It is logical to offer some incentive for White Oak to continue with the south area.

Analysis of Application

White Oak's application references the geologic conditions of the south mining area. These areas and conditions were marked and a copy of the mine map was provided. Other data was supplied by White Oak, but referenced the need for reduction due to costs of mining and sales. These figures were not analyzed as they related more to a royalty reduction under Categories 3 and 4. This application was analyzed under the Category 1 criteria. We also analyzed the application with relation to the current mining area. The application requested a Category 1 royalty reduction for the whole mine on all Federal coal leases, namely U-044076, U-067498, UTU-70018, and U-017354. We recommend rejection of the royalty reduction application for all leases except U-017354. The current conditions have been encountered and are projected to occur solely in lease U-017354. This should include the lease modification for U-017354, as the area has the same conditions. U-067498 is completely located east of the O'Conner Fault and no mining plans have been submitted or approved for this area. Should White Oak plan to mine this area at some other time, information would be needed to verify that the conditions on lease U-067498 warrant a royalty reduction. Lease U-044076 contains only a small portion on the east side of the Connelville fault where White Oak is mining. White Oak only subleases the east side of the fault and Canyon Fuels is the lessee of record. Granting royalty reduction to this lease is beyond the scope of this analysis, as further adjudication would be required to separate the application for the lessee and sub-lessee. As to lease UTU-70018, all of this lease is north of the dike and has been extensively mined out. Much of the adverse geologic conditions did not occur on this lease. It is used for access to the current mining areas to the south of the dike. Mining of the remaining reserves of this lease is planned at the end of the mine life. If conditions then exist that warrant a royalty reduction, White Oak can apply then for relief. At this time, mining is many years off and further documentation is needed to show adverse mining conditions for a Category 1 reduction.

Conclusions and Recommendations

From our analysis of White Oak's royalty rate reduction application, we conclude the following:

1. Lease U-017354 is where approved ongoing mining is occurring.

2. Current mining has encountered unanticipated faults and adverse mining conditions beyond like conditions in the area.

3. Access to most of the remaining reserves would require extra capital spending for fault crossings and added roof support.

4. The only access to these reserves is from existing works and the potential for bypass of this Federal coal is likely should White Oak not continue mining.

5. Under Category 1. (a), adverse mining conditions have made the Federal leased coal economically unrecoverable under standard industry operating practices and a royalty reduction would promote development and avoid bypass.

6. Some non-Federal coal reserves remain to the north that have lower royalty rates that would qualify under Category 1. (b).

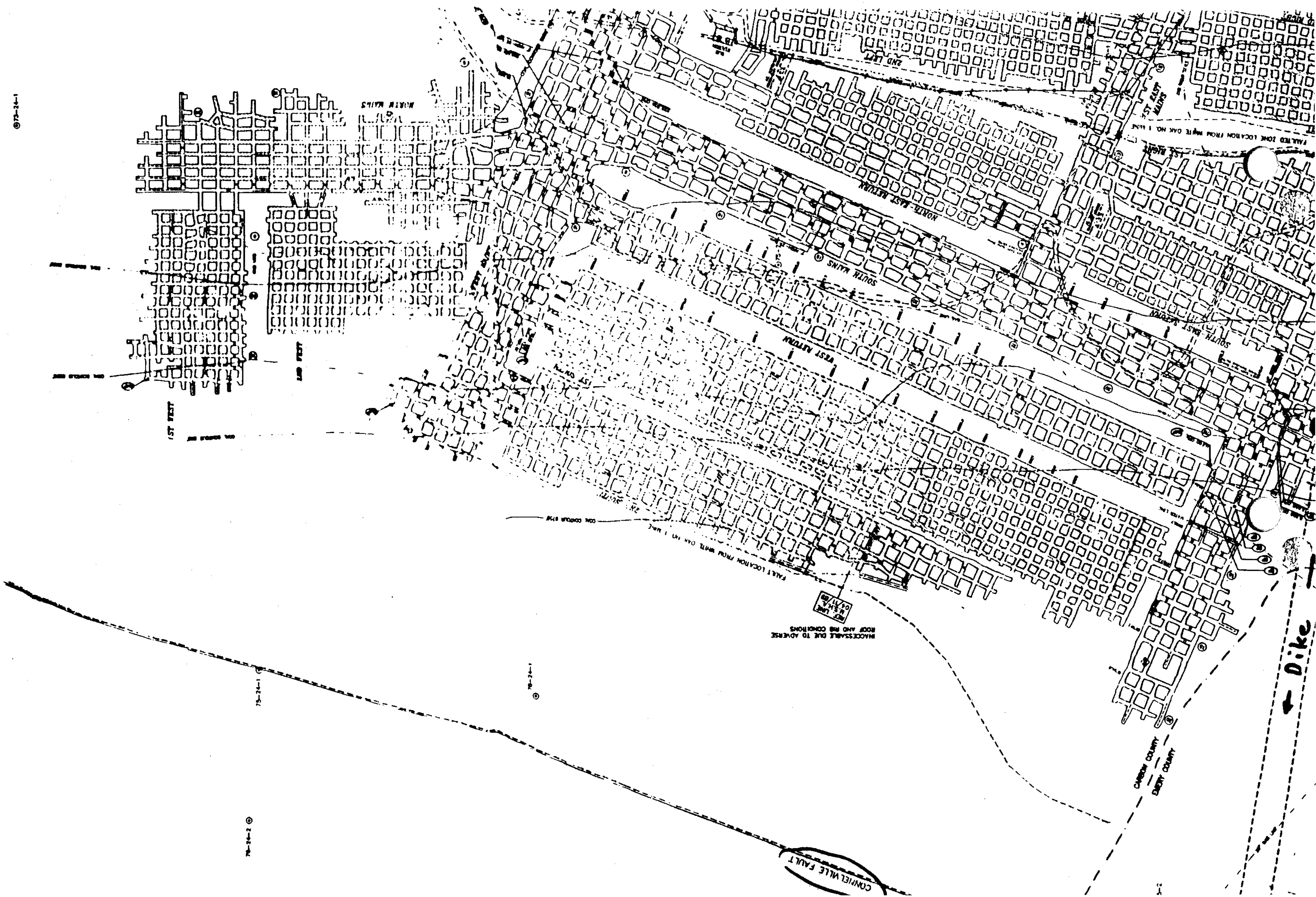
Therefore, White Oak has demonstrated that the mining area under lease U-017354 satisfies the criteria for a royalty rate reduction under Category 1. (a) of expanded recovery. We recommend that the royalty rate for this lease be reduced from 8 to 5 percent of the value of the coal and remain in effect until the coal in the lease is mined out or until it is determined that the adverse conditions no longer exist. This royalty rate reduction should become effective on July 18, 1997, or the date it was determined a complete application was submitted. The royalty rates for the other leases in the White Oak mining permit area should remain at 8 percent until additional information is submitted which warrants a change.

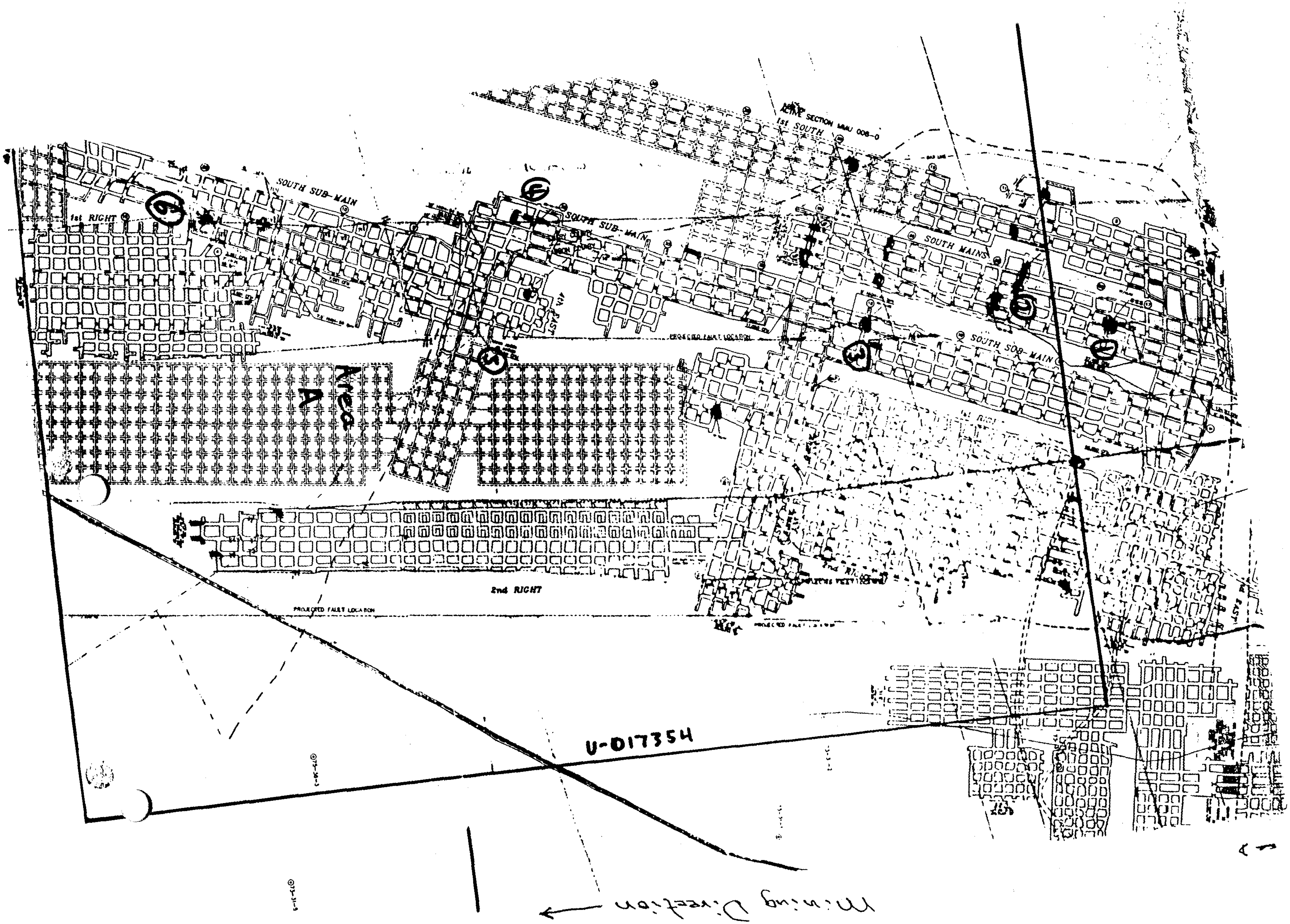
Stephen W Falk

Stephen W. Falk, Mining Engineer

#1

Mining Direction →




ACTIVE SECTION MMU 008-0
1st SOUTH
SOUTH SUB-MAIN
1st RIGHT
SOUTH SUB-MAIN
SOUTH MAINS
SOUTH SUB-MAIN
PROJECTED FAULT LOCATION
Area A
2nd RIGHT
PROJECTED FAULT LOCATION
U-017354
Mining Direction

#2

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON D. C. 20240

APR 15 1998

RT	OFFICE	ACTION	INITIAL	DATE
1	SD			
	ASD			
	SA			
	LE			
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	EEO			
2	NAT RES			4/20/98
	OPER			
	BUS PRA			

In Reply Refer To:
3485 (WO-320
(UT-930)
(U-017354)
(U-067498)
(UTU-70018)
(U-044076)

Memorandum

To: State Director, Utah

From: Assistant Director, Minerals, Realty and Resource Protection

Subject: Concurrence for Approval of a Category 1 Royalty Rate Reduction for White Oak Mining and Construction Co., White Oak Mine, Federal Coal Lease U-017354 and Denial of a Category 1 Royalty Rate Reduction for Federal Coal Leases U-067498, U-044076, and UTU-70018.

We have reviewed the Bureau of Land Management (BLM), Utah State Office, recommendation to approve an application for a Category 1, Adverse Geological Conditions, royalty rate reduction under BLM Manual 3485 (Reports, Royalties, and Records) from White Oak Mining and Construction Co. (WOMCC) for federal coal leases U-017354, U-067498, U-044076, and UTU-70018.

The royalty rate reduction application from WOMCC clearly indicates that adverse geologic conditions have resulted in some of the coal resource being economically unrecoverable. The conditions have resulted in increased mining costs, and thereby have adversely affected the potential recovery of the remaining recoverable resources in federal coal lease U-017354. It is evident that resources in federal coal lease U-067498, U-044076, and UTU- 70018 are not recoverable in the immediate future and are currently not eligible for a royalty rate reduction.

We concur with your recommendation to approve a Category 1 royalty rate reduction from 8.0 percent to 5.0 percent for federal coal lease U-017354. We agree that the statutory requirements of greatest ultimate recovery, conservation of the resource, and that the lease cannot be successfully operated under the terms of the lease have been met.

We also concur with your recommendation to deny a royalty rate reduction for federal coal leases U-067498, U-044076, and UTU-70018. We agree that the statutory requirements of greatest ultimate recovery, conservation of the resource, and that the lease cannot be successfully operated under the terms of the lease have not been met.

Please ensure that the application is in compliance with all applicable guidance including that the lease account be in good standing with the Mineral Management Service and that the lessee is not in permit block status on the Applicant Violator System of the Office of Surface Mining.

Please be sure the Utah Governor's Office is notified of the application and the proposed decision prior to any written or oral commitment to WOMCC. The Governor's concurrence needs to be obtained prior to approval.

Any questions may be addressed to William Radden-Lesage, Mining Engineer, Solid Minerals Group, (WO-320), FTS (202) 452-0350.

Carson W. Culp

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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February 13, 1998

RECEIVED
FEB 17 1998
Bureau of
Land Management

Max Nielson
United States Department of Interior
Bureau of Land Management
P.O. Box 45155
Salt Lake City, UT 84145-0155

Re: Royalty Rate Reduction White Oak Mining and Construction

Dear ~~Mr. Nielson~~ Max:

Thank you for your letter of February 11, 1998 and the contained information that resulted in a BLM recommendation to reduce the royalty rate in Federal lease ~~U-7354~~ U-017354 from 8% to 5%.

It is clear that the geologic and economic analysis supporting BLM's recommendation recognize the production cost and profit ramifications of mining in this geologically complex portion of the Wasatch Plateau Coalfield, and that BLM has weighed these factors with the objective of obtaining maximum economic recovery. I support BLM's recommendation based on the factors presented.

Thank you for the opportunity of commenting.

Sincerely,

Lowell

Lowell P. Braxton
Acting Director

dr
cc: R. Daniels
M. Wright
D. Koza, BLM