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cc S. Alder



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>

*Incoming
4/007/0008*

JAN 27 2004

IN REPLY REFER TO:
3487
U-017354
U-067498
U-47974
U-47975
UTU-70018
UTU-73344 (Valley Camp LMU)

CERTIFIED MAIL—Return Receipt Requested

DECISION

Mr. William D. Bishop, Trustee	:	Valley Camp Logical
Lodestar Energy, Inc.	:	Mining Unit: UTU-73344
2525 Harrodsburg Road, Suite 235	:	
Lexington, KY 40504	:	

man
JAN 29 2004

Logical Mining Unit Rejected
Smaller Logical Mining Unit Delineated
Coal Leases Terminated Due to Lack of Diligent Development

On November 6, 1991, Valley Camp of Utah, Inc. (Valley Camp) filed an application for a logical mining unit (LMU) which contained Federal coal leases U-017354, U-067498, U-47974, and U-47975 in their entirety, and U-020305 in part. Effective June 30, 1993, the portion of lease U-020305 within the LMU application was segregated into a new lease, UTU-70018. Valley Camp was the lessee on coal leases U-017354, U-067498, U-47974, and U-47975, and the sublessee on UTU-70018. The LMU application also contained substantial fee acreage.

White Oak Mining & Construction Co., Inc. (White Oak) filed assignments of record title and a transfer of sublease for the aforementioned leases on October 13, 1993. The assignments of U-067498, U-47974, and U-47975 were approved effective March 1, 1995. The assignment of U-017354 and the transfer of the sublease of UTU-70018 were approved effective April 1, 1995. White Oak also assumed the Valley Camp LMU application at that time.

On May 19, 1998, the Bureau of Land Management issued a decision rejecting the LMU application, because the applicant did not have effective control of all the lands in the LMU and therefore, the lands were not contiguous. As a result, leases U-47974 and U-47975 were terminated for failure to achieve diligent development. On June 29, 1998, White Oak appealed the decision to the Interior Board of Land Appeals (IBLA Docket No. 98-376).

On August 31, 1999, while the appeal was before IBLA, record title assignments for Federal coal leases U-017354, U-067498, U-47974, and U-47975, entered into on July 14, 1999, between Lodestar Energy, Inc. (Lodestar), as assignee, and White Oak, as assignor, were filed in this office. Also, a sublease transfer for Federal coal lease UTU-70018 between Lodestar, as transferee, and White Oak, as transferor, was filed in this office. Subsequently, by decision of October 12, 1999, Lodestar was advised that if the rejection of the LMU is affirmed by IBLA, not only would leases U-47974 and U-47975 terminate for failure to achieve diligent development, so would U-067498, a lease adjacent to producing lease U-017354. Lodestar filed an appeal of this decision on November 12, 1999 (IBLA Docket No. 2000-52).

IBLA issued a decision on July 31, 2001 (Lodestar Energy, Inc. 155 IBLA 286-295), setting aside the decisions and remanding the cases to BLM for further consideration.

On April 27, 2001, the United States Bankruptcy Court, Eastern District of Kentucky, Louisville, Kentucky granted Lodestar Energy, Inc. relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101-1330 (the "Bankruptcy Code"). On February 5, 2003, the following property, formerly owned by Lodestar was sold through the Bankruptcy Court to Blue Ridge Services, LLC.

T. 13 S., R. 7 E., SLM, UT

Sec. 7, S2SE, NESW;

Sec. 17, N2SW, NWNE, W2SE, SESE, SWNW, and
Beginning at the SW corner of the NE of said
Section, thence East 1320 feet; thence North
920 feet; thence West 200 feet; thence North
202 feet; thence West 20 feet; thence North
198 feet; thence West 1100 feet; thence South
1320 feet to the point of beginning.

Less: Parcel of State Road.

Less: 5.66 acres to Alpine School District.

Sec. 18, NE, N2SE, less 0.229 acres to Mountain Beli.

JAN 29 2004

This sale was for surface and subsurface rights and was closed on February 16, 2003.

The sale of this land to Blue Ridge Services, LLC renders the surface estate over the land bridge non-contiguous, since the land bridge is no longer under the control of one operator, the applicant's successor-in-interest (Lodestar). In addition, the building on the bridge lands that Lodestar used for offices, and allowed them to claim they were using the bridge lands for coal mining purposes has been demolished. A lock has been placed on the gate at the Belina mine, denying BLM rightful access under the lease to the mine. In light of these developments, the LMU could be rejected due to lack of contiguity alone.

Upon further consideration, another issue in the LMU application must be addressed. According to 43 CFR § 3480.0-5 (a)(19) a Logical Mining Unit is defined as:

“...an area of land in which the recoverable coal reserves can be developed in an efficient, economical, and orderly manner as a unit with due regard to conservation of recoverable coal reserves and other resources. An LMU may consist of one or more Federal leases and may include intervening or adjacent lands in which the United States does not own the coal. All lands in an LMU shall be under the effective control of a single operator/lessee, be able to be developed and operated as a single operation, and be contiguous.”

The coal deposit to be mined from leases U-47974 and U-47975 is separated by a canyon approximately a mile wide from the coal deposit mined from leases UTU-70018, U-017354 and U-067498. According to documents (letter of Denise Dragoo, counsel for White Oak, dated September 5, 1997) in the case file, a different mine, the Utah No. 3, will be used to develop the coal on leases U-47974 and U-47975. A mile-wide gap between the coal reserves in the two lease blocks leads to the conclusion these are two entirely discontinuous coal deposits. Since the lands cannot be developed and operated as a single operation as required by the definition above, the LMU is rejected for being unable to be operated as a single operation.

IBLA suggests BLM consider the potential of placing the leases U-47974 and U-47975 in a separate LMU. If this were done, the LMU would fail immediately, because diligent development would not have been achieved by the diligence due date, December 1, 1991. Subsequently, the leases would terminate for failure to achieve diligent development by December 1, 1991. Therefore, BLM will not consider two separate LMUs.

As a result of rejection of the original LMU application, Federal coal leases U-47974 and U-47975, which were issued effective December 1, 1981, are terminated, effective December 1, 1991, for failure to produce in commercial quantities (1 percent of the recoverable coal reserves) within ten years of their effective date. Refunds of rental paid after the expiration of the diligent development period are to be applied for directly from the Minerals Management Service, Minerals Revenue Management, Solid Minerals Staff, MS 390B2, P.O. Box 25165, Denver, Colorado 80225-0165.

Rejection of the LMU application resolves the issue of the appeal under Docket No. 98-376. We now turn our attention to the issue of forming an acceptable LMU out of the rejected LMU as appealed under Docket No. 2000-52.

BLM finds the following a viable LMU application to be reviewed for proper bonding, stipulations, diligence, maximum economic recovery et al.

Federal Lease U-017354

T. 13 S., R. 6 E., SLM, UT
Sec. 36, All.

T. 14 S., R. 6 E., SLM, UT
Sec. 1, lots 1-4, SENE, NESE, N2SENE, N2SWNW.

T. 13 S., R. 7 E., SLM, UT
Sec. 31, lot 3, NESW.

T. 14 S., R. 7 E., SLM, UT
 Sec. 6, lots 3-5, SENW.

Containing 1,188.08 acres

Federal Lease U-067498

T. 14 S., R. 7 E., SLM, UT
 Sec. 6, lots 2, 6, 7, SWNE, W2SE, E2SW;
 Sec. 7, lots 1, 2, 4, E2NW.

Containing 501.70 acres

Federal Lease UTU-70018

T. 13 S., R. 6 E., SLM, UT
 Sec. 24, SE;
 Sec. 25, Beginning at the SW Section Corner;
 Thence N. 28 Degrees 03' 38" 85
 Chains More or Less to the N ¼ Corner;
 Thence East 40.01 Chains to the NE Corner;
 Thence South 0 Degrees 03' W 75.1 Chains
 To the SE Corner; Thence West 80.07
 Chains to the Point of Beginning.

Containing 610.00 acres

Fee Land

T. 13 S., R. 7 E., SLM, UT
 Sec. 19, lot 4;
 Sec. 30, lots 1-4, SESW;
 Sec. Sec. 31, lots 1, 2, 4, SESW.

Containing 401.53 acres
 Total Acres in LMU: 2,701.31

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 on 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/ Don Banks

 Sally Wisely
State Director

Enclosures

1. Form 1842-1 (1p double-sided)
2. Lodestar Energy, Inc., 155 IBLA 286-295 (10 pp)
3. Bankruptcy Sale Document (5 pp)
4. Map

cc: Stoel Rives LLP, Attn: John S. Kirkham, Esq., One Utah Center, 201 S. Main St., #1100,
Salt Lake City, UT 84111-4904 (w/o encl)
WO-320 (w/o encl)
Price Coal Office (w/o encl)
Manti-LaSal National Forest (w/o encl)
U.S. Forest Service, Ogden (w/o encl)
MMS, Solid Minerals Staff, MS 390B2 (w/o encl)
Field Solicitor (w/o encl)
Lowell Braxton, Director UDOGM (wo/encl)