

0062



United States Department of the Interior

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

RECEIVED

OCT 21 2002

DIVISION OF OIL, GAS AND MINING

OK

IN REPLY REFER TO:
3485
U-044076
U-0147570
(UT-932)

OCT 15 2002

CERTIFIED MAIL--Return Receipt Requested

McComing
9/07/005

DECISION

Canyon Fuel Company, LLC	:	Coal Leases
c/o Ark Land Company	:	U-044076 and U-0147570
Attn: Douglas M. Downing	:	
City Place One, Suite 300	:	
St. Louis, MO 63141	:	

Royalty Rate Reduction for Federal Coal Lease U-044076 Approved

Royalty Rate Reduction for Federal Coal Lease U-0147570 Denied

On August 29, 2001, Canyon Fuel Company, LLC (CFC) filed for a royalty rate reduction, on Federal coal leases U-044076, and U-0147570 from 8 percent to 5 percent for production of coal on reserves located in Mine #3, Level 2 in the Lower O'Connor "B" coal seam.

The application was submitted under Category 1 in accordance with the Bureau of Land Management's royalty rate reduction guidelines for solid leasable minerals. Category 1 is a request for a royalty rate reduction in order to expand recovery of the coal resource.

Because mining has ceased in Federal coal lease U-0147570 which is an access to the Flat Canyon coal tract, BLM hereby denies this royalty rate reduction request for this lease.

A royalty rate reduction from 8 percent to 5 percent is hereby granted CFC for the portion of the recoverable coal reserves, in the approved mining plan that BLM approved on April 8, 2002. (See the enclosed map). This includes the coal in the 9 Left longwall Panel, 11 Left longwall Panel, 12 "A" Left longwall Panel and 12 Left "B" Panel except for the coal that is under the pipeline buffer which is already under a royalty rate reduction dated, February 14, 2000, and the gateroads, mains and bleeders that are associated with longwall panels 11 Left, 12 A Left and 12 B Left. This equates to approximately 6.3 million tons of coal. The royalty rate for the remaining area in the lease remains at 8 percent, as the application was for only a portion of coal

lease U-044076. The reduced royalty rate is effective September 1, 2001, the first day of the month after the date that a complete application for a royalty rate reduction was submitted (August 29, 2001). This royalty rate reduction will be in effect until September 1, 2006.

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 lease U-044076. 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-044076 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-044076.

Lessees receiving a reduced royalty rate under this category must submit, on or before the anniversary date (in this case September 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 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.

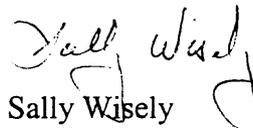
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above shown address) within 30 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 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.


Sally Wisely
State Director

Enclosures

1. Form 1842-1
2. Mine Map
3. Washington Letter of Concurrence
4. State of Utah Letter of Concurrence

cc: Canyon Fuel Company, LLC, Attn: Richard D. Pick, 6955 Union Park Center, Suite 540,
Midvale, UT 84047 (w/encl.)
Skyline Mine, Attn: Doug Johnson, P.O. Box 719, Helper, UT 84526 (w/encl.)
MMS, Solid Minerals Staff, MS 3153, P.O. Box 25165, Denver, CO 80225 (w/encl.)
Mr. Lowell Braxton, Director, UDOGM, Box 145801, Salt Lake City, UT 84114
(w/encl.)
Price Coal Office (Attn: George Tetreault) (w/encl.)

KEY - RRR Areas

-  Main Entries
-  L W Panels
-  Bleeders
-  Gate Roads

NOTE:
Areas in LW Panels under
red gas line already
included in another RRR

FEDERAL L.M.U.

UNLEASED AREA

12LB

12LA

11L

8L

7L

6L

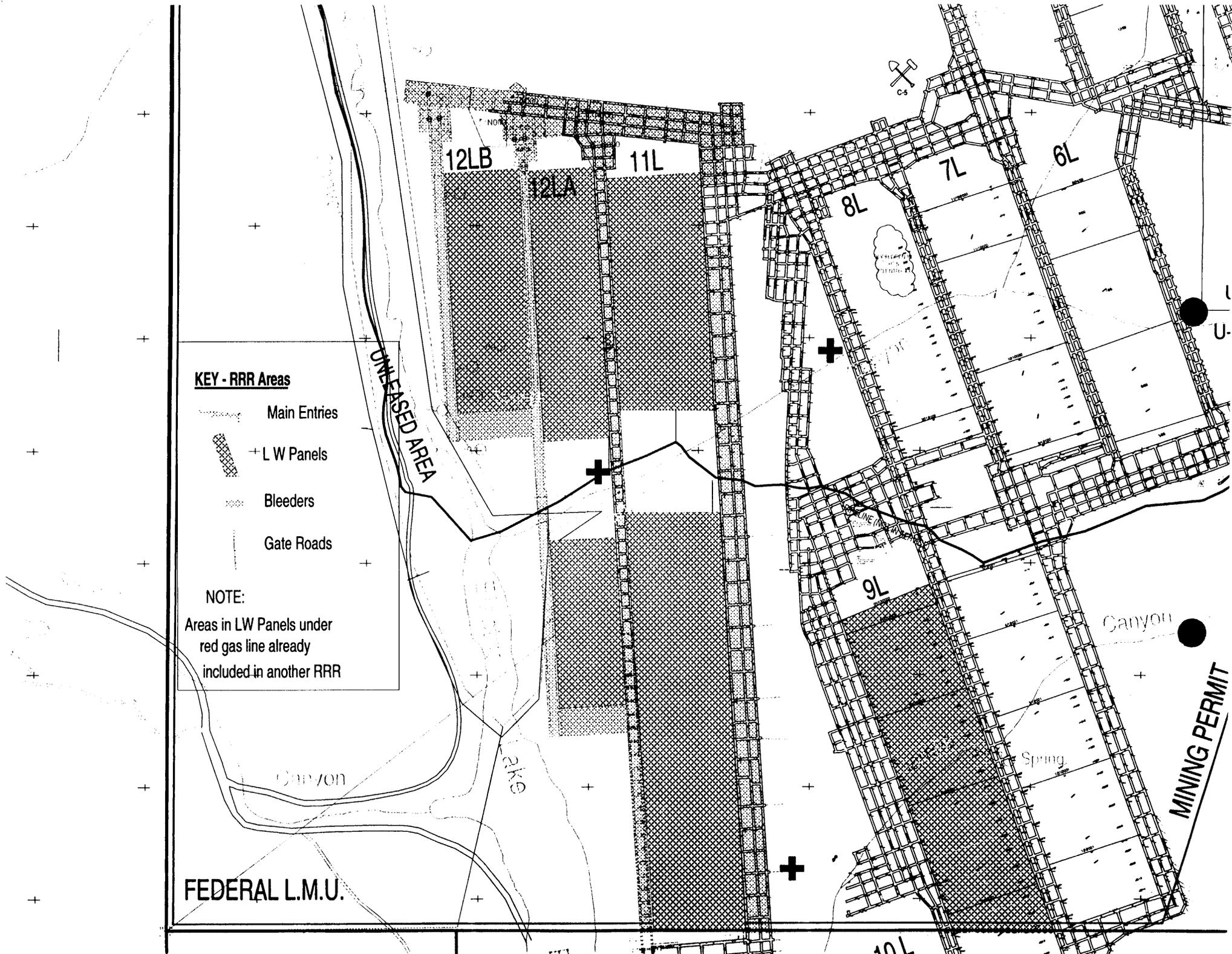
9L

10L

Canyon

Spring

MINING PERMIT



UNITED STATES DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT UTAH STATE OFFICE
 STATE DIRECTOR'S OFFICE
 Washington, DC 20240

RT	OFFICE	INITIAL	DATE
	SD		
	ASD		
	LE		
	EA		
	EEO		
	NAT RES		
	LND MIN		
	SUP SVC		

In Reply Refer To:
 3485
 UTU044076}

SEP 27 2002

MEMORANDUM

To: State Director, Utah

From: *Acting* Assistant Director, Minerals, Realty, and Resource Protection

Subject: Concurrence with the Royalty Rate Reduction for Federal Coal Lease
 UTU044076, Canyon Fuel Company LLC., Skyline Mine #3.

Bob Anderson

We have reviewed the Bureau of Land Management (BLM) Utah State Office's analysis and recommendation to approve a Category 1 royalty rate reduction for parts of Federal coal lease UTU044076, which is currently controlled by Canyon Fuel Company LLC.(CFC). We agree that the statutory requirements of greatest ultimate recovery, conservation of the resource, and the condition that the lease cannot be successfully operated under the lease terms have all been met.

We are concerned that there are unique and adverse geologic conditions at the Skyline Mine #3 which could adversely affect production and the greatest ultimate recovery of coal resources. We concur with your recommendation to grant a Category 1 royalty rate reduction from the lease royalty rate of 8 percent to 5 percent. However, the fact that there are two other previously approved royalty rate reductions from 8 to 5 percent currently in effect for portions of this lease makes the effect of this action unclear. Therefore, because it is unclear whether the reserves in this proposed action include the same reserves identified in the two reductions that are still in effect, we recommend this action be approved for all remaining recoverable coal reserves in this lease (serial number UTU044076) which are not included in the two previously approved royalty rate reductions. This would effectively bring all remaining production from this lease to a royalty rate of 5 percent. We further recommend the term of this royalty rate reduction be limited to not more than five (5) years following the effective date of this action. The effective date of the royalty rate reduction will be September 1, 2001.

Please ensure that the application is in compliance with all applicable guidance including that the lease account be in good standing with the Minerals Management Service.

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 CFC. The Governor's concurrence needs to be obtained prior to approval.

If you have any questions, please contact William Radden-Lesage, Mining Engineer, Division of Solid Minerals, (WO-320), 202- 452-0360.



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

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340 telephone
(801) 359-3940 fax
(801) 538-7223 TTY
www.nr.utah.gov

Michael O. Leavitt
Governor
Robert L. Morgan
Executive Director
Lowell P. Braxton
Division Director

RECEIVED

OCT 3 2002

October 2, 2002

Bureau of
and Management

Mr. Stan Perkes
Utah State Office
Bureau of Land Management
P.O. Box 45155
Salt Lake City, UT 84145-0155

Re: Royalty Rate Reduction Request by Canyon Fuel Company, Lease #U-044076

Dear Mr. Perkes:

The request for the reduction of the federal royalty for this lease from 8% to 5% has been under consideration since its receipt in your office on August 29, 2001. You will recall that we made an underground examination of this mine on December 14, 2001 and observed the excessive water appearing in the mine along with the efforts at disposal which were being taken by Canyon Fuel Company.

Utah concurs that the royalty reduction as requested will be in the best interest of the State, the company, and the conservation of the coal resource. The cost of water handling associated with this lease naturally has been analyzed in greater detail by your office, thus if there are additional pieces of information which would be useful to us for our files, please forward them to us.

Sincerely,


Lowell P. Braxton
Director

dh

cc: John Harja, DNR