



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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

RECEIVED  
BUREAU OF LAND MANAGEMENT  
DIVISION OF OIL, GAS AND MINING

In Reply Refer To:  
3485  
UTSL-027304  
UTSL-063058  
UTU-010581  
UTU-66060  
UTU-69600  
(UT-924)

AUG 22 2001

*[Handwritten signature]*  
*[Handwritten date: 8/22/01]*

CERTIFIED MAIL—Return Receipt Requested

### DECISION

ANDALEX Resources, Inc. : Coal Leases  
45 West 10000 South, Suite 401 : UTSL-027304, UTSL-063058, U-010581,  
Sandy, Utah 84070 : UTU-66060, and UTU-69600

#### Royalty Rate Reduction Approved

On September 8, 1999, ANDALEX Resources, Inc. (ARI) filed for a royalty rate reduction, on the above listed Federal coal leases, from 8 percent to 5 percent for production of the remaining coal in the leases. Based on a letter from the Bureau of Land Management (BLM) ARI revised their application and it was received by the BLM on November 21, 2000, to include only fringe area continuous miner coal extraction.

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.

BLM has determined that these coal resources are uneconomical at the present Federal royalty rate and they will not be mined if a royalty rate reduction is not granted. Enclosures 2 and 3 show the areas that have been approved for the royalty rate reduction (Areas 1-10). Most of these areas have already been deleted from the reserve base in the Resource Recovery and Protection Plan. BLM hereby grants a Category 4 royalty rate reduction from 8% to 4.8% in all areas. This is a weighted average for all coal based upon the royalty rates that the company has applied for. The effective date of the royalty rate reduction is December 1, 2000, the first day of the month after the date that a complete application for a royalty rate reduction was submitted (November 21, 2000) for coal mined in areas 1-10. The term of the royalty rate reduction will not exceed the production of 5,000,000 tons, or for a period of not more than five years after the effective date, whichever comes first.

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 the affected leases. 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) payer handbook.

The MMS has recently supplied verification that the leases are in good standing. The Utah Division of Oil, Gas and Mining as well as the Washington Office of the Bureau of Land Management have concurred with the royalty rate reduction for the leases.

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

If the coal takes more than five years to mine, the lessee must request a continuation of the royalty rate reduction 180 days prior to the end of the fifth year of mining and submit justification for continuing the royalty rate reduction.

Royalty rate reductions approved under this category are not automatically transferable with the lease. A business transaction interpreted by the BLM State Director to be a de facto transfer of ownership of the lease will void the royalty rate reduction unless the lessee certifies in a manner acceptable to the BLM State Director that such transfer results in no change in the lease operating costs, lease production revenue, or accounting procedures.

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

FOR

Enclosures

1. Form 1842-1
2. Map 1 (Aberdeen Mine) (1 p)
3. Map 2 (Pinnacle Mine) (1 p)
4. Washington Letter of Concurrence (2 pp)
5. Summary of Consultation with State of Utah (2 pp)

cc: ANDALEX Resources, Inc., Attn: Mike Glasson, P.O. Box 902, Price, UT (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: Steve Falk) (w/encl.)

bcc: Central Files  
SD Reading File  
UTSL-027304  
UTSL-063058  
UTU-010581  
UTU-66060  
UTU-69600  
Chris Merritt

CMerritt:JC:08/13/01





UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, DC 20240

AUG 2 - 2001

In Reply Refer To:  
3485  
{UTU-66060,  
UTU-69600,  
U-010581,  
SL-063058,  
SL-027304}

MEMORANDUM

To: State Director, Utah

From: Deputy Assistant Director, Minerals, Realty, and Resource Protection

Subject: Concurrence with the Royalty Rate Reduction for Federal Coal Leases UTU-66060, UTU-69600, U-010581, SL-063058, & SL-027304; Andalex Resources, Inc.; Pinnacle and Aberdeen Mines

We have reviewed the Bureau of Land Management (BLM) Utah State Office's analysis and recommendation to approve a Category 4 royalty rate reduction for Federal coal leases UTU-66060, UTU-69600, U-010581, SL-063058, & SL-027304, which are currently controlled by Andalex Resources, Inc (ARI). 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 all been met.

We agree with your concern that there are unique and adverse economic and geologic conditions which may jeopardize the continued operation of the Pinnacle and Aberdeen Mines. We concur with your recommendation to grant a Category 4 royalty rate reduction from the lease royalty rate of 8.0 percent to 4.8 percent. The effective date of the royalty rate reduction will be November 1, 2000. The term of the royalty rate reduction will not exceed the production of 5,000,000 tons, or for a period of not more than five years after the effective date, whichever occurs first.

We are, however, concerned that there is a significant probability that the projected costs for producing the identified coal will be greater than anticipated. Further, we are concerned that the royalty rate analysis from your office which determined the 4.8 percent royalty rate indicates that the lessee will be very limited in their ability to absorb any cost variance.

Therefore, this concurrence includes both the current action to reduce the royalty rate to 4.8 percent and, as needed after a written application from ARI, subsequent actions to further reduce the royalty rate to as low as 2.0 percent for the identified coal resources. Please advise our office in writing if the royalty rates are further reduced under this limited authority. Inclusion of additional coal resources or an extension in the maximum time of the reduction still require concurrence of this office for approval.

Please ensure that the application is in compliance with all applicable guidance including that the lease account is 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 ARI. The Governor's concurrence needs to be obtained prior to approval.

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

*Bob Anderson*  
Deputy Assistant Director,  
Minerals, Realty and  
Resource Protection



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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

IN REPLY REFER TO:

3485

U-74804

UTU-66060

UTU-69600

U-010581

SL-063058

SL-027304

(UT-951)

11 2001

Utah Division of Oil, Gas and Mining  
Attn: Mr. Lowell Braxton  
1994 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

Re: Royalty Rate Reduction Requests for the Horizon Mine and the Andalex Tower Division  
(Aberdeen and Pinnacle Mines)

Dear Mr. Braxton:

This letter is to summarize the discussions that were held on March 21, 2001, between your office and the BLM Utah State Office to satisfy the requirement of consultation with the Governor concerning Royalty Rate Reduction (RRR) applications on Federal coal leases. In our discussions there was a consensus that the applications should be approved and that the state of Utah felt that the approval would be in the public interest. The applications are summarized below.

BLM has received a RRR application for the Horizon mine on November 5, 1999. This mine has had severe water problems. The geological history of the area indicates that there is a high possibility of numerous faults in the property. The previous operators of the Horizon Mine showed losses for every year that it was in development. The application requests a RRR on the entire Federal coal lease. BLM has determined with the information that is available that the coal is not economically recoverable and a RRR is appropriate. BLM will elect to limit this RRR to the first 3 panels and evaluate the production costs on an annual basis to ensure the RRR is necessary. There is about 900,000 tons that is being considered for the RRR. If the coal was not mined there would be no revenue stream to the Federal government and eventually to the state of Utah. The BLM is recommending a RRR from 8% to 5%, therefore, this reduction will actually increase revenues to the federal and state government by \$720,000.

Andalex Resources applied for a RRR on September 8, 1999. Based on a letter from BLM, Andalex revised their application and it was received by BLM on November 21, 2000, to include only fringe area continuous miner coal extraction. BLM has determined that these coal resources are uneconomical at the present federal royalty rate and they will not be mined if a royalty rate reduction is not granted. Most of these areas have already been deleted from the reserve base in the Resource Recovery and Protection Plan based on poor conditions. There are approximately 4.9 MM tons of coal that would be recovered if all coal is mined. Plans have not been submitted to MSHA as of this date and there may be further reduction in reserves based upon their plan approval. BLM is recommending that a 4.8% Royalty Rate be set for all areas. This is a weighted average for all coal based upon the royalty rates that the company has applied for. Because this coal has already been taken out of any recovery plans this will increase the revenues to the federal and state government by \$5,524,570 based on 4,889,000 tons.

BLM is recommending that these applications be approved for RRR to promote the mining of coal in Utah. For further information contact Mr. Stan Perkes, (801) 539-4036.

Sincerely,  
*S/ Sally Wisely*

Sally Wisely  
State Director

bcc: Central Files  
SD Reading File  
Files - U-74804  
UTU-66060  
UTU-69600  
U-010581  
SL-063058  
SL-027304  
Solid Chron  
(UT-923) SPerkes

SPerkes:jan:05/08/01:staterrletter