

C/007/019 Incoming



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>



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MAY 05 2011

DIV. OF OIL, GAS & MINING

IN REPLY REFER TO:

3480
UTU-73865 (LMU)
SL-027304
UTU-79975
UTU-81893
(UT-9223)

APR 29 2011

CERTIFIED MAIL—Return Receipt Requested 7009 1410 0001 9070 9752

DECISION

Mr. David Hibbs	:	LMU
Andalex Resources, Inc.	:	UTU-73865
c/o UtahAmerican Energy Inc.	:	Federal Coal Leases
794 N. "C" Canyon Road	:	UTU-79975, UTU-81893
P. O. Box 910	:	
East Carbon, UT 84520	:	

Logical Mining Unit Modification Approved In-Part and Rejected In-Part

The Aberdeen (formerly referred to as the Castle Gate "A") Logical Mining Unit (LMU) was approved on November 30, 2010 and is effective on the date of filing of February 17, 1995. The original approval stated that Federal coal lease UTU-79975 was included in the original LMU approval. This was in error and it was correctly left out of the original legal description and the map of the original approval.

On November 15, 2007, Andalex resources Inc. submitted an application to modify the Aberdeen LMU. The application included Federal Coal leases UTU-79975 (Summit Creek), UTU-81893 (Kenilworth) and two pieces of fee coal referred to as the Mathis Fee (T. 13 S., R. 6 E. SLM, Section 36) and the Mathis Fee Inverted T" (T. 12 S., R. 10 E. SLM, Section 26: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 34: NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35 N $\frac{1}{2}$ NW $\frac{1}{4}$). ¹⁰⁷

The BLM rejects in-part the application. Federal Coal Lease UTU-81893 cannot be placed in to the Aberdeen Logical Mining Unit (LMU) because the BLM cannot approve a Resource Recovery and Protection Plan (R2P2) for a lease that has not had a complete Permit Application

Package filed with the Utah Division of Oil, Gas and Mining (43 CFR 3482.2 (a)(2)). The BLM is required to use the reserves approved in the Resource Recovery and Protection Plan (R2P2) for the reserve base for the LMU (43 CFR 3482.2(a)(3)). Because these requirements cannot be met, this part of the application is rejected. The BLM also rejects the addition of Federal Coal lease UTU-81893 because UEI has not submitted an R2P2 and the BLM is required to use the recoverable reserves for an LMU that are as of the date of the approved R2P2 (43 CFR 3482.2(a)(3)).

The BLM rejects the Mathis Fee Inverted "T" because this parcel of land is not under the effective control of the operator (43 CFR 3480.0-5 (a)(19)).

The BLM approves the addition of the Mathis Fee (T. 13 S., R. 6 E., Section 36) and Federal Coal Lease UTU-79975 to be included into the Aberdeen LMU as of the date of the submission. You will find enclosed revised LMU stipulations which also address the Continued Operations (CO) requirements for the modified LMU.

Andalex Resources has 30 days from receipt of this letter to sign the revised LMU stipulations. If the BLM has not received these stipulations signed by the company then we will consider that you no longer want this LMU modification and the BLM will reject your LMU modification application.

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/ Juan Palma

Juan Palma
State Director

Enclosure
Form 1842-1

cc:

Resource Development Coordinating Committee, ATTN: Mineral Leasing Taskforce,
116 State Capital Building, Salt Lake City, Utah 84114
Mr. John Baza, Director, UDOGM, Box 145801, Salt Lake City, Utah 84114-5801

Price Field Office

ONRR, Solid Minerals Staff, Attn: Patrick Mulcahy, MS390B2, Box 25165, Denver, CO
80225-0165

LMUModDecisionNov152007SP-SA-4-29-11

Enclosure
Aberdeen Logical Mining Unit Stipulations
15 November 2007 Modification

The Mineral Leasing Act (MLA) of February 25, 1920, as amended by the Federal Coal Leasing Amendments Act (FCLAA) of 1976, authorizes the consolidation of coal leases into a logical mining unit (LMU). A LMU is an area of land which the coal resources can be developed in an efficient, economical and orderly manner as a unit with due regard to conservation of coal resources and other resources.

As a result of an application for a LMU designation filed by Andalex Resources, Inc., the Aberdeen (previously referred to as the Castle Gate "A") LMU was approved effective February 17, 1995, and is hereby modified as of November 15, 2007 and provides as follows:

1. **Aberdeen Logical Mining Unit Area:** The area specified on the map attached hereto marked Exhibit A being hereby designating the Aberdeen LMU (modified effective November 15, 2007) area containing 6,521.86 acres as described as follows:

Original and Modified Area:

All Coal Lands approved to be within the modified LMU.

- T.12 S., R. 10 E., SLM, Utah
 - Sec. 36, all;
- T. 12 S., R. 11 E., SLM, Utah
 - Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 - Sec. 30, lots 4, 12, and 14-16;
 - Sec. 31, lots 1-22 (all);
 - Sec. 32, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SW $\frac{1}{4}$;
- T. 13 S., R. 10 E., SLM, Utah
 - Sec. 1, all;
 - Sec. 12, all;
- T. 13 S., R. 11 E., SLM, Utah
 - Sec. 4, S $\frac{1}{2}$;
 - Sec. 5, all;
 - Sec. 6, all;
 - Sec. 7, all;
 - Sec. 8, all;
 - Sec. 9, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 - Sec. 17, N $\frac{1}{2}$, N $\frac{1}{2}$ N $\frac{1}{2}$ S $\frac{1}{2}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 - Sec. 18, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Containing 6,521.86 acres more or less.

Lands Added by this Modification:

Federal Coal Lease UTU-79975

Lease Effective Date: September 1, 2004\

T. 12 S., R. 11 E., SLM, Utah

Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 30, lots 4, 12, and 14-16;

Sec. 31, lots 1, 2, and 7-11;

Sec. 32, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Containing 702.73 acres more or less.

Private Lands: Mathis Fee

T.12 S., R. 10 E., SLM, Utah

Sec. 36, all;

Containing 640 acres, more or less.

2. Unit Operator:

Andalex Resources, Inc.
c/o UtahAmerican Energy Inc.
794 North "C" Canyon Road
P.O. Box 910
East Carbon, UT 84520

3. Stipulations: As a consideration to the approval of the LMU, the operator/lessee consents to the following stipulations which make all Federal leases within the LMU subject to uniform requirements of the approved Resource Recovery and Protection Plan (R2P2), LMU recoverable reserves exhaustion, diligent development, lease modifications, continued operation, maximum economic recovery, advance royalty and royalty reporting periods. As of May 1, 1990, the diligence terms and conditions of the Federal lease are subject to or are superseded by the diligence requirements imposed on the LMU.

a. **Supervision:**

Bureau of Land Management
Utah State Office
440 West 200 South
Suite, 500
Salt Lake City, UT 84101-1345

OR

Mailing Address:
Bureau of Land Management
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155

The authorized officer (AO) who is the State Director located at the above location is responsible for the review and approval of the leasing actions, LMU formation and modifications along with enforcement of the LMU stipulations.

Approval and modifications to exploration plans and R2P2's, inspection and enforcement of lease terms and conditions, including but not limited to production verification, of operations on all lands and all coal within the LMU will be handled from the Price Field Office. The AO for these actions is the Price Field Manager who is also responsible for recommendations for mining plan approval, and modifications thereto, prior to the commencement of mining operations within the permit area approved pursuant to the Surface Mining Control and Reclamation Act (SMCRA) of 1977.

Bureau of Land Management
Price Field Office
125 South 600 West
Price, UT 84501

b. **Resource Recovery and Protection Plan:** In accordance with 43 CFR 3482.1(b and c) the LMU must have a life-of-mine R2P2. This life-of-mine R2P2 was approved by the BLM on July 7, 1993 and the recoverable reserves were readjusted as per May 2008. Prior to commencement of mining on the Aberdeen LMU, an updated R2P2 shall be submitted to the Authorized Officer of the BLM 30 days prior to the commencement of mining operations.

c. **Diligent Development and Continued Operation Requirements:** Pursuant to 43 CFR 3480.0-5 (a)(13)(B), the LMU must meet "diligence" development requirement of production of commercial quantities (1% of the recoverable coal reserves) by the "diligence due date" (date by which diligence must be met). This is ten years after the most recently issued or readjusted lease after August 4, 1976, in the original LMU application. Continued operations (CO) must be maintained after diligence has been met and this begins on the month after diligence has been achieved. Each 12 month period after diligence has been met is designated as a continued operation year (COY). Commercial quantities must be mined in every COY after diligence has been met. Coal must be mined anywhere within the boundaries of the LMU in order to be credited toward meeting these requirements.

The diligent development period for the Aberdeen LMU began on November 21, 1990, which is the date in which the most recently readjusted federal coal lease became "subject to diligence" (based on the original LMU application received by the BLM on February 17, 1995). (See Exhibit B) Therefore the LMU diligence due date is November 21, 2000. Andalex Resources, Inc. met the "diligence" development requirement (of mining 367,162 tons) on the date of application (February 17, 1995). The diligent development date does not change due to the modification.

The LMU must maintain continued operation requirements (mining commercial quantities of 1 percent of the recoverable reserve base). Since the LMU met the requirement for diligent development in February 1995 the first continued operation year (COY) for this LMU began on March 1, 1995. The original Aberdeen LMU approval had met the COY requirements for every year through COY 12 (2006-2007). As per this modification the recoverable reserve base is increased for

UTU-79975 and the Mathis Fee for a total recoverable reserve base of 32,701,102 tons. This includes a re-inventory of recoverable coal reserves as of May 2008 which reviewed all the recoverable coal that is contained in the LMU. This evaluation looked at new information on the reserve base as per 43 CFR 3482.2(a)(3) and the coal reserves were adjusted to take into account these changes. The new **continued operation requirement will be 327,011 tons**. As lands are added or removed from the LMU, or as geologic information changes, the commercial quantities requirement can change and have changed.

This modification will affect COY 13 through the date of the approval (February 2010).

The CO requirement was met COY 13 (March 1, 2007- February 1, 2008). This is based on meeting the 3-year rolling average but the LMU did NOT meet the CO requirement on a single year basis. Because it was met with the 3-year rolling average the CO requirement is considered to have been met.

The CO requirement was met in COY 14 (March 1, 2008 - February 1, 2009). This is based on meeting the 3-year rolling average but the LMU did NOT meet the CO requirement on a single year basis. Because it was met on a 3-year rolling average basis the CO requirement is considered to have been met.

The CO requirement **was NOT met** in COY 15 (March 1, 2009 – February 1, 2010). This is based on not meeting the single year requirement or the 3-year rolling average.

d. **Advance Royalty:** 43 CFR 3483.4 allows for advance royalty to be paid in lieu of continued operation requirements. Advance royalty may be paid in lieu of continued operation, after diligent development is achieved, at any time during the life of the lease or LMU. In accordance with 30 U.S.C. § 207 (b) (2010) (109 P.L. No. 58 § 434, Aug. 8, 2005) payment of advance royalties shall reduce the amount of production royalty to be paid for any year (but not below zero) to the extent that the advance royalties have not been used to reduce production royalties for a prior year. The aggregate number of years during the life of the lease or LMU that advance royalty can be paid is twenty (20). **Advanced royalty is due for COY 15 and the BLM will address this situation in a separate piece of correspondence.**

e. **Reporting Period:** The rental amount for the Federal coal leases is to be prorated to the effective date of the LMU. Thereafter, rental for Federal coal leases contained in the LMU will be due, in a lump sum, annually on the anniversary date of the LMU approval, February 17, 1995. The rentals will be required to be prorated. The lessee will be required to pay the amount of rentals on each lease anniversary date by the amount shown to bring its payments up to February 17, 2011. At that point in time the rental for the LMU will be required which will include all Federal leases. This will be pro-rated as per Exhibit C.

Royalties for Federal recoverable reserves produced within the LMU will be paid on the appropriate Office of Natural Resource Revenue (ONRR) Production and Operations reports for every royalty reporting period. The LMU royalty reporting period will be on a monthly basis beginning with the royalty period after the date that coal is first produced following the effective date of the LMU. If

coal is being produced on the effective date of the LMU approval, the first royalty reporting period will begin on the first day of the month following the effective date of the LMU.

f. **Recoverable Coal Reserves Exhaustion:** The 40-year LMU recoverable coal reserves exhaustion period commences the date the coal is first produced from the LMU which will be following the effective date of LMU approval (February 17, 1995). If there is production occurring within the LMU on the effective date of LMU approval, the 40-year mine out period begins on the effective date of LMU approval. In accordance with U.S.C. § 207 (b) (2010) (109 P.L. No. 58 § 434, Aug.8, 2005), the 40 year limit on the LMU may be extended.

g. **Other:** If this LMU fails for whatever reason, the Federal coal leases contained in this LMU approval (SL-027304, SL-063058, UTU-05067 UTU-010581, UTU-66060, UTU-69600, and UTU-79975) will revert to their original terms and conditions and will be treated as if they were never in the LMU.

h. **Regulations:** This LMU is subject to the regulations at 43 CFR 3480 and will be subject to any changes in the regulations as of the date they are published in the Federal Register.

i. **Non-Federal Production and Maps:** All production within an LMU is credited to the entire LMU, a certified record of all non-Federal LMU coal production must be provided to the AO on an annual basis as a minimum. Progress maps and reports required by 43 CFR 3487.1(i) will show all Federal and non-Federal production from anywhere within the LMU. The certified record of production and the progress maps must be submitted to the BLM as required by the Authorized Officer. Annual submittal of underground maps (Federal and Non-Federal lands) shall be mailed to the above Price UT address by April 1st, of each year and should be in accordance with 43 CFR 3482.3. Electronic .dwg files and 2 hard copies are required.

Accepted by:

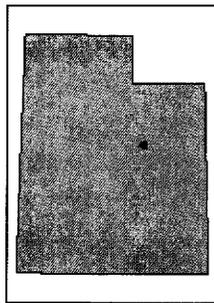
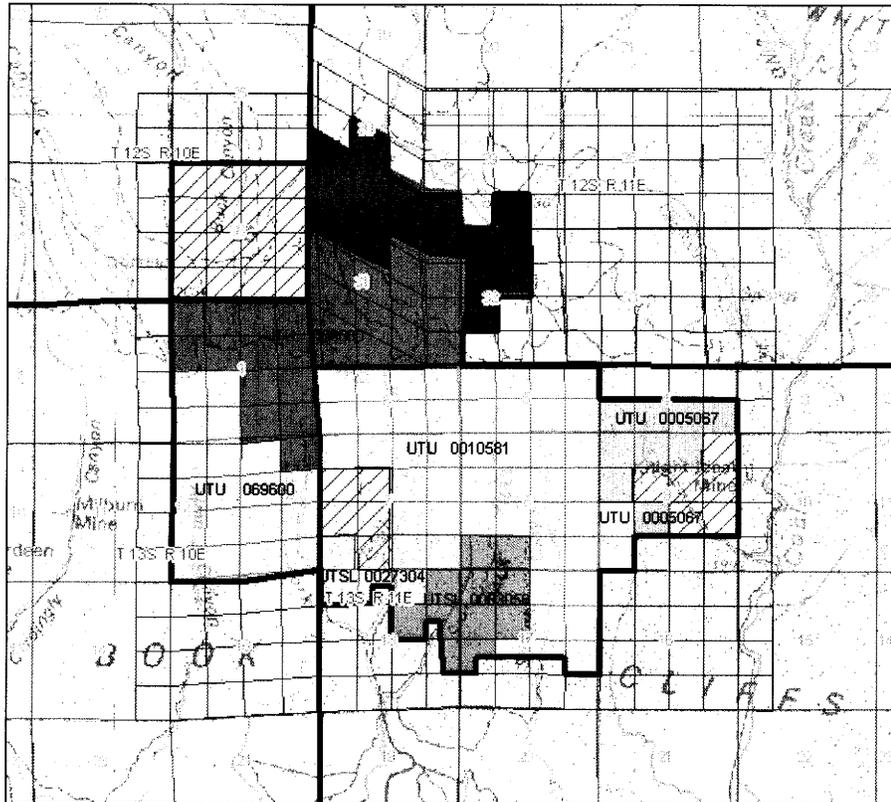
Andalex Resources, Inc.

By _____

Title

**Exhibit A
Aberdeen LMU Map**

Aberdeen LMU UTU-073865
Aberdeen, Pinnacle & Apex
Mines
November 15, 2007 Effective Date

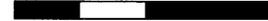


Location

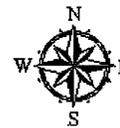
Legend

- Aberdeen_LMU_Bdry
- Aberdeen LMU Leases**
- serial_nr_full**
- UTSL 0027304
- UTSL 0063058
- UTU 066060
- UTU 069600
- UTU 079975
- UTU 0005067
- UTU 0010581
- Privatlands

5,000 2,500 0 5,000 Feet



Scale



January 11, 2011

ABERDEEN LMU**EXHIBIT "B"****Diligence Development/Continued Operations:**

Lease Number	Total Recoverable Reserves as of May 2008	LMU Subject to Diligence Date	LMU Effective Date
SL-027304	711,072	August 1, 1979	February 17, 1995
SL-063058	1,724,877	November 26, 1981	February 17, 1995
UTU-05067	2,142,588	July 3, 1990	February 17, 1995
UTU-010581	10,594,883	August 1, 1979	February 17, 1995
UTU-66060	9,989,462	October 11, 1990	February 17, 1995
UTU-69600	2,851,698	November 21, 1990	February 17, 1995
Zion's Fee	416,682	NA	February 17, 1995
Mathis Fee	2,000,000	NA	November 15, 2007
UTU-79975	2,269,840	NA	November 15, 2007
Total	32,701,102		

ABERDEEN LMU

EXHIBIT "C"

The lease rental payment schedule will be as follows for the LMU Modification date of November 15, 2007

Lease Number	Lease Issuance Date	Anniversary Date	Amt. Due on Anniversary Date	March 1 (Months)	Amt. Due March 1, 2012
UTU-77975	September 1, 2004	September 1	Regular Rental	6	\$1054.5

1. The BLM cannot approve a Resource Recovery and Protection Plan (R2P2) that has not had a complete Permit Application Package (PAP) filed with the regulatory authority which in this case is the Utah Division of Oil, Gas and Mining (DOG M). Federal Coal Lease UTU-81893 has not had a complete PAP filed with DOGM as of this date. Therefore BLM cannot currently approve an R2P2 (43 CFR 3482.2 (a)(2) for this lease.
2. The BLM is required to use the recoverable reserves for an LMU that are as of the date of approval of an R2P2 (43 CFR 3482.2(a)(3). Since the R2P2 cannot be approved because a PAP has not been filed with DOGM, the BLM cannot use the "approved R2P2" for Federal Coal Lease UTU-81893 reserves to estimate the new LMU reserves (by placing this lease into the LMU). This is required for the modified LMU calculation of the Diligence/Continued Operation required as per the lease and the regulations (43 CFR 3483.1). BLM has no choice but to reject placing Federal Coal Lease UTU-81893 into the Aberdeen LMU at this time.

Date

The original commercial quantities requirement to be mined is 303,941 tons based on the July 7, 1993 life of mine R2P2