

4/007/019 Incoming



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Utah State Office
440 West 200 South, Suite 500
Salt Lake City, UT 84101-1345
<http://www.blm.gov/ut/st/en.html>

IN REPLY REFER TO:
3487
UTU-73865
UTU-81893
(UT-9223)

JAN 15 2015

RECEIVED

JAN 16 2015

DIV. OF OIL, GAS & MINING

CERTIFIED MAIL – 91 7199 9991 7034 8615 8295

Return Receipt Requested

DECISION

UtahAmerican Energy, Inc.	:	Coal Lease: UTU-81893
794 N. "C" Canyon Road	:	LMU: UTU-73865
P. O. Box 910	:	
East Carbon, Utah 84520-0910	:	

Rejection of – Minor Modification to Resource Recovery and Protection Plan, Aberdeen Logical Mining Unit, UtahAmerican Energy, Inc.

This decision replaces and supersedes the letter dated December 1, 2014, by the Bureau of Land Management (BLM) Price Field Office in response to the letter dated January 22, 2014, submitted by UtahAmerican Energy (UEI) regarding advanced royalty payments and for the Aberdeen LMU (UTU-73865).

On January 27, 2014, the BLM received a request from UEI to modify the approved Resource Recovery and Protection Plan (R2P2) for the Aberdeen Logical Mining Unit (LMU). This minor modification proposal reflects the previously accepted lease relinquishments in the LMU, and states the UEI position that there are no remaining recoverable reserves. The remaining mining areas of the complex are located in the retained portions of leases SL-027304, SL-063058, U-010581, UTU-66060, and UTU-69600, all of which are within the approved Aberdeen LMU UTU-73865.

Analysis of the UEI Submission

1. The submitted mine map with the new lease and LMU boundaries matches the legal description of the current retained lease area and is acceptable for the modified R2P2.

2. The R2P2 minor modification request submitted lacks timing and dates for the mining as required in the regulations.¹
3. The proposed R2P2 plan submitted does not provide for recovery of the remaining coal reserves as shown in the BLM "Coal Lease Partial Relinquishments and Relinquishment Accepted" dated August 20, 2013, (UEI relinquishment request, submitted May 24, 2012). The BLM August 20, 2013, approval showed a recoverable coal reserve base of 2,557,914 tons in the retained portions of the LMU as follows:

Recoverable Federal Coal Reserves

Federal Leases	Recoverable Reserve Base (tons)
UTSL-63058	0
UTSL-027304	190,942
UTU-010581	46,410
UTU-005067	Relinquished
UTU-66060	406,504
UTU-69600	1,914,058
UTU-79975	Relinquished
Total Federal	2,557,914

Moreover, it is the BLM's understanding from numerous meetings and correspondence with UEI that the intention of UEI is to modify the LMU and add the Kenilworth lease (UTU-81893) to the LMU for future mining. For that reason the BLM finds there are economic minable reserves in the LMU for recovery at the time the future mining is conducted. Therefore, advanced royalty is due on the previous stated tonnage of 2,557,914 tons. Also, I would like to reiterate that 43 CFR 3482.2(a)(3) states:

"Recoverable coal reserves estimates. For all Federal coal leases issued or readjusted after August 4, 1976, the recoverable coal reserves or LMU recoverable coal reserves shall be those estimated by the authorized officer as of the date of approval of the resource recovery and protection plan, or the date of approval of any existing mining plan as defined at 30 CFR 740.5 (1981). If an operator/lessee credits production toward diligent development in accordance with §3483.5 of this title, such credits shall be included in the recoverable coal reserves or LMU recoverable coal reserves estimates. The estimate of recoverable coal reserves or LMU recoverable coal reserves may only be revised as new information becomes available. Estimates of recoverable coal reserves or LMU recoverable coal reserves shall not be reduced due to any production after the original estimate made by the authorized officer."

However, if UEI has now made a decision to not include lease UTU-81893 into the LMU and wishes to maintain the LMU for reclamation purposes, then UEI can submit a request to modify the R2P2 and the BLM can concur there are no reserves left to be mined from that point forward.

¹43 CFR § 3482.1(i) Exploration and resource recovery and protection plans:

(v) General layout of proposed underground mine showing—

(A) Planned sequence of mining by year for the first 5 years, thereafter in 5-year increments for the remainder of the mine life;

Therefore, within 30 days of UEI's receipt of this decision the following information must be submitted to the BLM Utah State Office.

1. Pursuant to 43 CFR 3487.1(h) a complete application packet requesting that LMU-73865 be modified to include lease UTU-81893; or,
2. A reclamation plan must be submitted for the reclamation and permanent closure of the Aberdeen mine. The reclamation plan must include details on how UEI will remove all facilities, equipment; etc. from BLM administered lands within 18 months of this decision. Provide evidence to BLM that UEI has submitted a plan to the Utah Division of Oil, Gas and Mining (UDOGM) to proceed with final reclamation of the site.

The UEI proposed R2P2 modification transmittal letter of January 27, 2014, including the proposed mine map is rejected due to the reasons stated above.

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.

If you have any questions, please feel free to contact Roger Bankert of this office at (801) 539-4037.



Juan Palma
State Director

Enclosure:

1. Form 1842-1

cc: Price Coal Office (UTG021)

Green river District Office (UTG00)

Mr. John Baza, Director, UDOGM, Box 145801, Salt Lake City, Utah 84114-5801