



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:
3452
SL-071737
(UT-924)

DEC 20 2001

Int'l
✓ 1007/038
Copy 1007/004

CERTIFIED MAIL—Return Receipt Requested

DECISION

Lessee:	:	
Blackhawk Coal Company	:	
555 Office Center Place	:	Coal Lease
Gahanna, OH 432305315	:	SL-071737
	:	
Sublessee:	:	
Plateau Mining Corporation	:	
847 NW Hwy 191	:	
Helper, UT 84526	:	

Coal Lease Terminated Pursuant to Authority of Law

Coal lease SL-071737 was issued effective September 1, 1950, pursuant and subject to the terms and conditions of the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. § 181-263, and to all regulations of the Department of the Interior.

The coal lease was readjusted effective September 1, 1990, under the provisions of the Federal Coal Leasing Amendments Act of 1976 (FCLAA). At that time it became subject to the diligent development provisions of FCLAA.

On November 7, 1990, a logical mining unit (LMU) application (designated the Meadowlark LMU) was filed in this office. Among the Federal leases included in the application was SL-071737. At that time, the prospective terms and conditions of the LMU (including diligent development) superseded but did not replace the terms and conditions of the individual lease.

The Meadowlark LMU application was withdrawn effective July 9, 2001. At that time, Federal coal lease SL-071737 reverted to its individual lease terms and conditions.

Section 6 of FCLAA, 30 U.S.C. § 207 (1988) provides, in part, "Any lease which is not producing in commercial quantities at the end of ten years shall be terminated." Utah Power & Light Co., 117 IBLA 271 (1991).

Section 4 of the readjusted lease terms requires diligent development, and the regulations at 43 CFR 3452.3(a) state, "Any lease issued or readjusted after August 4, 1976, shall be terminated if the lease does not meet the diligent development requirements." Diligent development is defined at 43 CFR 3480.0-5(12) and (13) as "the production of recoverable coal reserves in commercial quantities prior to the end of the diligent development period." For leases issued prior to August 4, 1976, the diligent development period is a 10-year period beginning on the effective date of the first readjustment after August 4, 1976, 43 CFR 3480.0-5(13). Commercial quantities are defined as "1 percent of the recoverable coal reserves," 43 CFR 3480.0-5(a)(6).

Coal lease SL-071737 was required to meet diligent development requirements by September 1, 2000. Inasmuch as these requirements were not met, lease SL-071737 is hereby terminated pursuant to authority of law effective September 1, 2000. There is no statutory or regulatory authority to alleviate this requirement. Refund of annual rental payments due September 1, 2000, and later, should be requested from the Minerals Management Service, Minerals Revenue Management, Solid Minerals Staff, MS3153, P.O. Box 25165, Denver, CO 80225.

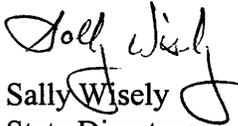
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from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


Sally Wisely
State Director

Enclosure

1. Form 1842-1 (1 p)

cc: WO-320
Resource Development Coordinating Committee
MMS, Solid Minerals Staff (Attn: Patrick Mulcahy)
Price Coal Office (Attn: Steve Falk)
Office of the Field Solicitor
Mr. Lowell Braxton, Director, UDOGM, P.O. Box 145801, SLC, UT 84114-5801
SITLA, (Attn: John Blake), 675 E. 500 So., Suite 500, SLC, UT 84102
Plateau Mining Corp., (Attn: C. Corwin Bromley), 94 Inverness Terrace E., Suite 120,
Englewood, CO 80112-5300 (w/encl.)
RAG American Coal Holding, Inc., (Attn: Greg A. Walker), 999 Corporate Blvd.,
Linthicum Heights, MD 21090