



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-029093-046653
U-058184
(UT-924)

MAR 5 2002

CERTIFIED MAIL—Return Receipt Requested

DECISION

Lessee:	:	
Blackhawk Coal Company	:	
555 Office Center Place	:	Coal Lease
Gahanna, OH 432305315	:	SL-029093-046653
	:	U-058184
Sublessee:	:	
Plateau Mining Corporation	:	
847 NW Hwy 191	:	
Helper, UT 84526	:	

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Notice of Noncompliance For Violation of Continued Operation Requirement

By decision of November 13, 2001, this office accepted the withdrawal of the Meadowlark Logical Mining Unit (LMU) application, which was filed November 7, 1990. As a consequence, the Federal coal leases within the LMU application reverted to individual lease terms and conditions. Four of the leases terminated, pursuant to authority of law, for failure to achieve diligent development.

Before being included in the LMU application, Federal coal lease SL-029093-046653 had achieved diligent development and was under the continued operation provision of the lease. This provision requires either actual production in commercial quantities from the lease or payment of advance royalty in lieu thereof. In accordance with 43 CFR § 3483.4 (a), "Advance royalty may only be accepted in lieu of continued operation upon application to and approval by the authorized officer."

Coal lease U-058184 was not included in the LMU application, but was included in the Blackhawk LMU modification submitted November 23, 1998. BLM approved the withdrawal of this modification at the same time as it approved the withdrawal of the Meadowlark LMU application. As a result, coal lease U-058184 reverted to its lease terms and conditions. Before its inclusion in the Blackhawk LMU modification, the lease had achieved diligent development and was under the continued operation provision.

Since the acceptance of the withdrawal of the Meadowlark LMU and withdrawal of the Blackhawk LMU modification, neither lease has resumed production, nor has application to pay advance royalty in lieu of continued operation been made to the authorized officer.

Therefore, in accordance with 43 CFR §§ 3483.1(a)(2) and 3483.4(g) the lessee/sublessee are in violation of the continued operation requirement of the leases. If production does not resume or an application to pay advance royalty is not submitted to the authorized officer within 30 days of receipt of this decision, the matter will be referred to the Office of the Solicitor for the Department of the Interior with a recommendation to cancel the above coal leases in accordance with the regulations at 43 CFR 3452.1. See 43 CFR §§ 3483.2(c) and 3483.4(g).

In addition, failure to comply within 30 days will result in the lessee/sublessee and their parent companies, affiliates, and subsidiaries being placed on a list under Section 2(a)(2)(A) of the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976. Section 2(a)(2)(A) of the Mineral Leasing Act provides that the Secretary shall not issue a mineral lease under this Act to any entity which holds or has held a coal lease that has not produced coal in commercial quantities within 10 years. With respect to coal leases, a BLM authorized officer is prohibited from approving the transfer of any lease to a disqualified entity, and/or its corporate family. Coal lease SL-029093-046653 has not produced coal in commercial quantities since April 1, 1989. Coal lease U-058184 has not produced coal in commercial quantities since January 1, 1988.

If you have any questions concerning the above matter, please contact Chris Merritt, of my staff, at (801) 539-4109.

/s/ Robert Lopez

Robert Lopez
Chief, Branch of
Minerals Adjudication

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, Attn: Emily Roosevelt

Ms. Mary Ann Wright, 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

RAG American Coal Holding, Inc., (Attn: Greg A. Walker), 999 Corporate Blvd.,
Linthicum Heights, MD 21090

Jackson & Kelly, Attorneys-at-Law, Attn: Brian McGee, 1099 18th St., Ste. 2150,
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