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United States Department of the Interior



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BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
<http://www.blm.gov>

IN REPLY REFER TO:
3485
UTU-07064-027821
(UT-923)

RECEIVED

AUG 15 2006

DIV. OF OIL, GAS & MINING

AUG 14 2006

CERTIFIED MAIL—Return Receipt Requested

DECISION

Canyon Fuel Company, LLC
c/o Ark Land Company
City Place One, Suite 300
St. Louis, MO 63141

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:
Coal Lease
:
UTU-07064-027821
:
:

Healy
C007/0039

Royalty Rate Reduction Application for Coal Lease UTU-07064-027821 Rejected

On June 28, 2005, Canyon Fuel Company, LLC filed for a royalty rate reduction (RRR) on coal mined from Federal lease UTU-07064-027821, which is the Dugout Canyon Mine. Canyon Fuel Company, LLC requested a reduction from the normal underground rate of 8 percent to a rate of 5 percent.

By a letter dated August 4, 2005 the Bureau of Land Management (BLM) determined that your application did not contain sufficient information to enable BLM to determine whether the coal is "economically unrecoverable" at the present royalty rate and requested additional information be provided within thirty days, in order to continue the review of your application. By a letter dated September 2, 2005 you requested a sixty day extension to provide the information required to support the requested royalty rate reduction. This request for an extension was granted, allowing you until November 4, 2005 to submit the required information. Additional extensions were given by E-Mails, on November 2, 2005 an extension until December 4, 2005 was granted; and on December 5, 2005, another extension until January 17, 2006 was given.

Finally on May 15, 2006 we again sent a letter to Canyon Fuel Company, LLC requesting that the requested information be submitted to this office within thirty days of the receipt of the letter (May 18, 2006). No updated information has been provided to date. Therefore your royalty rate reduction application is hereby rejected.

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.

JAMES F KOHLER

James F. Kohler
Chief, Branch of
Sold Minerals

Enclosures

1. Form 1842-1 (1 p)

cc: Ms. Mary Ann Wright, Acting Director, UDOGM, Box 145801, Salt Lake City, Utah 84114-5801
Price Coal Office
MMS, MRM, Solid Minerals Staff, Attn: Patrick Mulcahy, MS390B2, Box 25165,
Denver, CO 80225-0165
Mr. Erwin Sass, General Manager, Canyon Fuel Company, LLC, Soldier?Dugout
Canyon Mines, P.O. Box 1029, Wellington, Utah 84542