



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Utah State Office

440 West 200 South, Suite 500

Salt Lake City, UT 84101

<http://www.blm.gov/ut/st/en.html>

IN REPLY REFER TO:

3451

UTU-07064-027821

(UT-9223)

DEC 16 2016

RECEIVED

DEC 23 2016

DIV. OF OIL, GAS & MINING

CERTIFIED MAIL—Return Receipt Requested

91 7199 9991 7037 5227 2304

DECISION

Canyon Fuel Company, LLC	:	Coal Lease
c/o Bowie Resource Partners, LLC	:	UTU-07064-027821
225 North 5 th Street, 9 th Floor	:	
Grand Junction, CO 81501	:	

Readjustment of Coal Lease UTU-07064-0278217 Effective January 1, 2017

The regulations under 43 CFR 3451.1(a)(1) and (2) state:

1. All leases issued prior to August 4, 1976, shall be subject to readjustment at the end of the current 20-year period and at the end of each 10-year period thereafter.

Coal lease UTU-07064-027821 was issued effective January 1, 1957. By notice dated January 7, 2015, Canyon Fuel Company, LLC was notified that the terms and conditions of the readjustment of coal lease UTU-07064-027821 would be provided in accordance with the regulations under 43 CFR 3451 no later than January 1, 2017.

As provided in Part I of the lease and in accordance with the regulations under 43 CFR 3451.2, enclosed are the terms and conditions of coal lease UTU-07064-027821 effective January 1, 2017.

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 further questions, please call Bill Buge at (801) 539-4086.


Edwin L. Roberson
State Director

Enclosures (2)

Form 1842-1 (1 p)

Coal Lease Readjustment (10 pp)

cc: Ms. Jill Ptacek, Department of Justice, Antitrust Division, Transportation, Energy and Agriculture Section, 450 5th Street, NW, Suite 4100, Washington D.C. 20530 (w/encl.)
Resource Development Coordinating Committee, ATTN: Mineral Leasing Taskforce, 116 State Capital Building, Salt Lake City, Utah 84114 (w/encl.)
Mr. John Baza, Director, UDOGM, Box 145801, Salt Lake City, Utah 84114-5801 (w/encl.)
Price Coal Office (w/encl.)
ONRR, MRM, Solid Minerals Staff, Attn: Michael Rausch, MS632308, Box 25165, Denver, CO 80225-0165
Canyon Fuel Company, LLC, c/o Bowie Resource Partners, LLC, 6100 Dutchmans Lane, 9th Floor, Louisville, KY 40205

SPECIAL STIPULATIONS FOR
UTU-07064-027821 Readjusted Coal Lease

1. **SMCRA:** In accordance with Sec. 523(b) of the "Surface Mining Control and Reclamation Act of 1977," surface mining and reclamation operations conducted on this lease are to conform with the requirements of this act and are subject to compliance with Office of Surface Mining regulations, or as applicable the Utah program approved under the cooperative agreement in accordance with sec. 523(c). The United States Government does not warrant that the entire tract will be susceptible to mining.

2. **CULTURAL AND PALEONTOLOGICAL:** Before undertaking activities that may disturb the surface of previously undisturbed leased lands, the lessee may be required to conduct a cultural resource inventory and a paleontological appraisal of the areas to be disturbed. These studies shall be conducted by qualified professional cultural resource specialists or qualified paleontologists, as appropriate, and a report prepared itemizing the findings. A plan will then be submitted making recommendations for the protection of, or measures to be taken to mitigate impacts for identified cultural or paleontological resources.

If cultural resources or paleontological remains (fossils) of significant scientific interest are discovered during operations under this lease, the lessee, prior to disturbance, shall immediately bring them to the attention of the Authorized Officer who shall evaluate, or have evaluated such discoveries and, within 5 working days, shall notify the lessee what action shall be taken with respect to such discoveries. Paleontological remains of significant scientific interest do not include leaves, ferns, or dinosaur tracks commonly encountered during underground mining operations.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the lessee. The cost of salvage of paleontological remains (fossils) shall be borne by the United States.

3. **T&E SPECIES:** If there is reason to believe that Threatened or Endangered (T&E) species of plants or animals, or migratory bird species of high Federal interest occur in the area, the Lessee shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist and a report of findings will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the lessee.

4. **BASELINE DATA:** The Lessee shall be required to perform a study to secure adequate baseline data to quantify the existing surface resources on and adjacent to the lease area. Existing data may be used if such data are adequate for the intended purposes. The study shall be adequate to locate, quantify, and demonstrate the interrelationship of the geology, topography, surface and

ground water hydrology, vegetation and wildlife. Baseline data will be established so that future programs of observation can be incorporated at regular intervals for comparison.

5. **POWER LINES:** Power lines used in conjunction with the mining of coal from this lease shall be constructed so as to provide adequate protection for raptors and other large birds. When feasible, power lines will be located at least 100 yards from public roads.

6. **FUGITIVE DUST:** The lessee shall provide for the suppression and control of fugitive dust on haul roads, permitted roads, and at coal handling and storage facilities. On National Forest System Roads (NFSR), lessees may perform their share of road maintenance by a commensurate share agreement if a significant degree of traffic is generated that is not related to their activities.

7. **SUBSIDENCE MONITORING:** The lessee shall be required to establish a monitoring system to locate, measure, and quantify the progressive and final effects of underground mining activities on the topographic surface, underground and surface hydrology and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the lease area. The monitoring shall incorporate and be an extension of the baseline data.

8. **SURFACE SUBSIDENCE:** Except at locations specifically approved by the Authorized Officer, with concurrence of the surface management agency, underground mining operations shall be conducted in such a manner so as to prevent surface subsidence that would: (1) cause the creation of hazardous conditions such as potential escarpment failure and landslides, (2) cause damage to existing surface structures, and (3) damage or alter the flow of perennial streams. Where the Forest Service specifically approves exceptions to the above restrictions on subsidence, the lessee shall provide specific measures for the protection of escarpments, and determine corrective measures to assure that hazardous conditions are not created.

9. **STEEP CANYON SLOPES:** In order to avoid surface disturbance on steep canyon slopes and to preclude the need for surface access, all surface breakouts for ventilation tunnels shall be constructed from inside the mine, except at specifically approved locations.

10. **FACILITY REMOVAL:** Support facilities, structures, equipment, and similar developments will be removed from the lease area within 2 years after the final termination of use of such facilities. This provision shall apply unless the requirement of Section 10 of the lease form is applicable. Disturbed areas and those areas previously occupied by such facilities will be stabilized and rehabilitated, drainages reestablished, and the areas returned to a pre-mining land use.

11. **SURVEY MONUMENTS:** The Lessee at the conclusion of the mining operation, or at other times as surface disturbance related to mining may occur, will replace all damaged, disturbed, or displaced corner monuments (section corners, quarter corners, etc.) their accessories and appendages (witness trees, bearing trees, etc.), or restore them to their original condition and location, or at other locations that meet the requirements of the rectangular surveying system. This work shall be conducted at the expense of the Lessee, by Bureau of Land Management (BLM) land surveyors, to

the standards and guidelines found in the Manual of Surveying Instructions, U.S. Department of Interior.

12. **RESOURCE RECOVERY AND PROTECTION PLAN:** Notwithstanding the approval of a resource recovery and protection plan (R2P2) by the BLM, lessor reserves the right to seek damages against the operator/lessee in the event (i) the operator/lessee fails to achieve maximum economic recovery [as defined at 43 CFR §3480.0-5(21)] of the recoverable coal reserves or (ii) the operator/lessee is determined to have caused a wasting of recoverable coal reserves. Damages shall be measured on the basis of the royalty that would have been payable on the wasted or unrecovered coal.

The parties recognize that under an approved R2P2, conditions may require a modification by the operator/lessee of that plan. In the event a coal bed or portion thereof is not to be mined or is rendered unminable by the operation, the operator shall submit appropriate justification to obtain approval by the AO to leave such reserves unmined. Upon approval by the AO, such coal beds or portions thereof shall not be subject to damages as described above. Further, nothing in this section shall prevent the operator/lessee from exercising its right to relinquish all or a portion of the lease as authorized by statute and regulation.

In the event the AO determines that the R2P2 as approved will not attain MER as the result of changed conditions, the AO will give proper notice to the operator/lessee as required under applicable regulations. The AO will order a modification if necessary, identifying additional reserves to be mined in order to attain MER. Upon a final administrative or judicial ruling upholding such an ordered modification, any reserves left unmined (wasted) under that plan will be subject to damages as described in the first paragraph under this section.

Subject to the right to appeal hereinafter set forth, payment of the value of the royalty on such unmined recoverable coal reserves shall become due and payable upon determination by the AO that the coal reserves have been rendered unminable or at such time that the lessee has demonstrated an unwillingness to extract the coal.

The BLM may enforce this provision either by issuing a written decision requiring payment of the Office of Natural Resource Revenue (ONRR) demand for such royalties, or by issuing a notice of non-compliance. A decision or notice of non-compliance issued by the lessor that payment is due under this stipulation is appealable as allowed by law.

13. **WASTE CERTIFICATION:** The lessee shall provide upon abandonment and/or sealing off a mined area and prior to lease termination/relinquishment, certification to the lessor that, based upon a complete search of all the operator's records for the mine and upon their knowledge of past operations, there has been no **hazardous substances** per (40 CFR 302.4) or **used oil** as per Utah State Management Rule R-315-15, deposited within the lease, either on the surface or underground, or that all remedial action necessary has been taken to protect human health and the environment with respect to any such substances remaining on the property. The back-up documentation to be provided shall be described by the lessor prior to the first certification and shall include all

documentation applicable to the Emergency Planning and Community Right-to-know Act (EPCRA, Public Law 99-499), Title III of the Superfund Amendments and Reauthorization Act of 1986 or equivalent.

14. **ABANDONMENT OF EQUIPMENT:** The lessee/operator is responsible for compliance with reporting regarding toxic and hazardous material and substances under Federal Law and all associated amendments and regulations for the handling of such materials on the land surface and in underground mine workings.

The lessee/operator must remove mine equipment and materials not needed for continued operations, roof support and mine safety from underground workings prior to abandonment of mine sections. Exceptions can be approved by the Authorized Officer (BLM) in consultation with the surface management agency. Creation of a situation that would prevent removal of such material and by retreat or abandonment of mine sections without prior authorization would be considered noncompliance with lease terms and conditions and subject to appropriate penalties under the lease.

15. **UNDERGROUND INSPECTION:** All safe and accessible areas shall be inspected prior to being sealed. The lessee shall notify the Authorized Officer in writing 30 days prior to the sealing of any areas in the mine and state the reason for closure. Prior to seals being put into place, the lessee shall inspect the area and document any equipment/machinery, hazardous substances, and used oil that is to be left underground.

The purpose of this inspection will be: (1) to provide documentation for compliance with 42 U.S.C. 9620 section 120(h) and State Management Rule R-315-15, and to assure that certification will be meaningful at the time of lease relinquishment, (2) to document the inspection with a mine map showing location of equipment/machinery (model, type of fluid, amount remaining, batteries etc.) that is proposed to be left underground. In addition, these items will be photographed at the lessee's expense and shall be submitted to the Authorized Officer as part of the certification. The abandonment of any equipment/machinery shall be on a case by case basis and shall not be accomplished unless the Authorized Officer has granted a written approval.

16. **GOB VENT BOREHOLES:** The Lessee shall submit a gob vent borehole plan for approval by the AO as part of an R2P2 for all gob vent boreholes. The plugging portion of the plan must meet 43 CFR 3484.1(a)(3) as a minimum. If variations to the approved plugging procedures are necessary, they shall also be approved by the AO in writing prior to implementation of the procedures.

17. **FAIR MARKET VALUE BONUS (Tract2):** Due to the uncertainty of the amount of recoverable coal reserves in this modification, the lessee will pay the fair market value (FMR) bonus payment for the coal resources mined in the area of Federal coal lease modification (U07064-027821) Tract 2, at the rate of \$0.20 per ton for the actual tonnage mined. Payment of FMV at the specified rate and tonnage mined will be on the schedule required for payment of production royalties to the Office of Natural Resource Revenue (ONRR). The lessee will clearly indicate which portion of the payment is for royalty and what is for the lease bonus amount.

18. FAIR MARKET VALUE BONUS (Tract 3): Due to the uncertainty of the amount of recoverable coal reserves in this modification, the lessee will pay the fair market value (FMR) bonus payment for the coal resources mined in the area of Federal coal lease modification (U07064-027821) Tract 3, at the rate of \$0.35 per ton for the actual tonnage mined, adjusted annually using the U.S. Bureau of Labor Statistics CPI West Urban Energy Index; or if that index is not available an index that is mutually agreed to by the lessee and the Authorized Officer will be used. Payment of FMV at the specified rate and tonnage mined will be on the schedule required for payment of production royalties to the Office of Natural Resource Revenue (ONRR). The lessee will clearly indicate which portion of the payment is for royalty and what is for the lease bonus amount.

19. FAIR MARKET VALUE BONUS (Tract4): Due to the uncertainty of the amount of recoverable coal reserves in this modification, the lessee will pay the fair market value (FMV) bonus payment for the coal resources mined in the area of Federal coal lease modification (U07064-027821) Tract 4, at the rate of \$0.28 per ton for the actual tonnage mined, adjusted annually using the U.S. Bureau of Labor Statistics CPI West Urban Energy Index; or if that index is not available the BLM Authorized Officer will chose a comparable index to be used. Payment of FMV at the specified rate and tonnage mined will be on the schedule required for payment of production royalties to the Office of Natural Resource Revenue (ONRR). The lessee will clearly indicate which portion of the payment is for royalty and what is for the lease bonus amount.

20. SAGE GROUSE: For portions of the lease within Greater Sage-Grouse (GRSG) Priority Habitat Management Areas (PHMA), operations must be conducted consistent with the Price Field Office Resource Management Plan, as amended by the Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region including the Greater Stage-Grouse Sub-Regions of Idaho and Southwest Montana, Nevada and Northeastern California, Oregon and Utah (September 21, 2016). Stipulations outlined within these plans will apply to PHMA where: (1) the Federal government manages both the surface and Federal mineral estate; (2) the Federal government manages the mineral estate in PHMA and the surface is non-Federal ownership; and (3) the Federal government manages the surface but the mineral estate is in non-Federal ownership. This stipulation should be followed while meeting mine safety standards/requirements as identified by Mine Safety and Health Administration approval process.