

C007/041 Incoming



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

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

**AUG 07 2012**

IN REPLY REFER TO:

3482

SL-068754, UTU-78562

(UT-9223)

**RECEIVED**

**AUG 08 2012**

**DIV. OF OIL, GAS & MINING**

CERTIFIED MAIL—7010 3090 0000 8061 0496

Return Receipt Requested

David W. Hibbs, President  
UtahAmerican Energy, Inc.  
794 North "C" Canyon Road  
P.O. Box 910  
East Carbon, Utah 84520

Re: Application for a Category 1 Expanded Recovery Royalty Rate Reduction from 8% to 5% for the Westridge Mine for 2 years for Leases SL-068754 and UTU-78562

Dear Mr. Hibbs:

On December 29, 2009, the Bureau of Land Management (BLM) received a request from Westridge Resources, Inc. (Westridge), for a royalty rate reduction for the coal production from Federal Leases UTSL-068754 and UTU-78562. Westridge requested a royalty rate reduction from the 8% rate specified in the lease to 5%.

The December 29, 2009 request from Westridge asserts:

*The quality currently experienced at the mine has resulted in lower realizations than previously experienced. Also, raw coal is being processed to remove ash and sulphur at the Headwaters facility in Wellington, Utah. Although the processing improves the coal quality and marginally improves the marketability; the cost of the product is increased. The requested Royalty Rate Reduction will help offset some of the additional cost incurred in processing the coal.*

(Underlining added)

Subsequent to the Westridge December 29, 2009 Royalty Rate Reduction application, Westridge has applied a coal processing allowance to provide for the deduction of coal processing costs in the calculation of Federal royalty (with the Office of Natural Resource Revenue). These are the same coal processing costs that were the subject of the earlier royalty rate reduction application noted above. This deduction of coal processing cost from the gross value of coal before the calculation of Federal royalty has provided royalty relief for the subject coal processing costs. Therefore, the December 29, 2009 application for a Royalty Rate Reduction is denied.

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 contact Jeff McKenzie of my staff at (801) 539-4038.

Sincerely,



Roger L. Bankert  
Chief, Branch of Minerals

cc: Price Field Office (UTG02)

Green River District Office (UTG00)

John Baza, Director, Utah Division of Oil Gas and Mining, 1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114-5801