



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>

IN REPLY REFER TO:
3485
UTU-084923
(UT-924)

AUG 9 2005

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AUG 12 2005

CERTIFIED MAIL—Return Receipt Requested

DIV. OF OIL, GAS & MINING

DECISION

| | | |
|------------------------------------|---|------------|
| Lessee: | : | |
| Zions First National Bank, Trustee | : | Coal Lease |
| Malcolm N. McKinnon Trust | : | UTU-084923 |
| P. O. Box 30880 | : | |
| Salt Lake City, UT 84130-0880 | : | |
| | : | |
| Sublessee: | : | |
| PacificCorp | : | |
| c/o Interwest Mining Company | : | |
| One Utah Center | : | |
| 201 South Main, Suite2100 | : | |
| Salt Lake City, Utah 84111-2303 | : | |

Handwritten signature and date: c/p 15/0018

Category 1 Royalty Rate Reduction For a Portion of Coal Lease UTU-084923 Approved

On January 20, 2005, PacifiCorp filed for a royalty rate reduction (RRR) on coal mined from Federal lease UTU-084923, which is the Deer Creek Mine. PacifiCorp requested a reduction from the normal underground rate of 8 percent to a rate of 5 percent.

The Bureau of Land Management (BLM) has examined the PacifiCorp application for a RRR on Federal coal lease UTU-084923 and determined the Deer Creek Mine presently has unique adverse geologic conditions which threaten the recovery of the identified resource in the third left longwall panel. BLM is limiting the RRR to a smaller area, in lieu of approving a RRR for the entire Federal lease.

BLM hereby approves a Category 1 RRR, effective February 1, 2005, the start of the first royalty reporting period after the date an application for a RRR was filed (January 20, 2005). The term of the RRR will be production of up to 287,250 tons of coal from the third left longwall panel, in Federal coal lease UTU-084923, or for a period of one year from the effective date, whichever comes first.

Excess royalties paid on production between the filing of the RRR application and the approval date shall be recouped as a credit from prospective production royalty payments from lease UTU-084923. In no case shall a lessee be entitled to or ever receive a cash refund once a RRR has been approved. A lessee may recoup past royalty overpayments only from succeeding period royalty obligations for the same lease account for which a RRR has been granted. Reporting of royalty recoupments shall be made in accordance with the Minerals Management Service's (MMS) payer handbook.

The lease is in good standing with MMS. The Utah Division of Oil, Gas and Mining as well as the Washington Office of the BLM have sent letters of concurrence to the RRR.

Royalty rate reductions approved under this category are transferable with the lease, provided all lease payments are current and the lease accounts are in good standing.

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.

/s/ Sally Wisely

Sally Wisely
State Director

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. Jack Troyer, Regional Forester, U.S. Forest Service, 324 25th Street, Ogden, Utah 84401
Alice Carlton, Forest Supervisor, Manti-La Sal National Forest, 599 Price River Dr., Price, UT
84501