



United States Department of the Interior

C/015/018 Incoming



BUREAU OF LAND MANAGEMENT
Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
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IN REPLY REFER TO:
3451
UTSL-070645-02292
(UT-9223)

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DECISION

DIV OF OIL, GAS, & MINING

Lessee:	:	
Armeda McKinnon Illiquid Assets Trust	:	Coal Lease
c/o Western National Trust Company	:	UTSL-070645-02292
One South Main Street, 12 th Floor	:	
Salt Lake City, Utah 84111	:	
	:	
Sublessee:	:	
PacifiCorp	:	
c/o Interwest Mining Company	:	
1407 West North Temple, Suite 310	:	
Salt Lake City, Utah 84116	:	

Readjustment of Coal Lease UTSL-070645-02292
Lease Stipulations Revised

By a decision dated March 26, 2012, the Armeda McKinnon Illiquid Assets Trust, lessee, and PacifiCorp, the sublessee, were notified of the terms and conditions of the readjustment of coal lease UTU-070645-02292, in accordance with the regulations under 43 CFR 3451.

The sublessee, PacifiCorp, objected to some of the revised stipulations recommended by the Forest Service. A negotiated settlement to these objections has been agreed to by the parties involved. Written consents to the amended stipulations have been filed by the Forest Service, PacifiCorp and the Armeda McKinnon Illiquid Assets Trust.

Therefore, attached are the amended stipulations which are now part of the terms and conditions of the readjusted coal lease UTSL-070645-02292, effective as of April 1, 2012.

If you have questions please contact Bill Buge of this office at (801) 539-4086.

/s/ Juan Palma

Juan Palma
State Director

Enclosures

1. Lease Stipulations (5 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: Patrick Mulcahy, MS390B2, Box 25165, Denver, CO 80225-0165 (w/encl.)

Liz Close, Acting Forest Supervisor, Manti-La Sal National Forest, 599 Price River Dr., Price, UT 84501 (w/encl.)

Tina Garcia, USDA-Forest Service, Southwest Region, 333 Broadway Blvd., SE, Albuquerque, NM 87102

Harv Forsgren, Regional Forester, U. S. Forest Service, 324 25th street, Ogden, UT 84401

**SPECIAL STIPULATIONS FOR
COAL LEASE UTSL-070645-02292**

1. 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. 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 appropriate authorities. 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.

3. 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. 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. Powerlines 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, powerlines will be located at least 100 yards from public roads.

6. The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of the access road, are factors which will determine the ultimate size of the surface area utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major modifications to existing developments to examine alternatives and mitigate conflicts.
7. Consideration will be given to site selection to reduce adverse visual impacts. Where alternative sites are available, and each alternative is technically feasible, the alternative involving the least damage to the scenery and other resources shall be selected. Permanent structures and facilities will be designed, and screening techniques employed, to reduce visual impacts, and where possible achieve a final landscape compatible with the natural surroundings. The creation of unusual, objectionable, or unnatural land forms and vegetative landscape features will be avoided.
8. 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.
9. The lessee shall provide for the suppression and control of fugitive dust on haul roads and at coal handling and storage facilities. On Forest Development Roads (FDR), 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.
10. Except at locations specifically approved by the Authorized Officer, with concurrence of the Forest Service, 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. The lessee shall provide specific measures for the protection of escarpments, and determine corrective measures to assure that hazardous conditions are not created.
11. 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.
12. If removal of timber is required for clearing of construction sites, etc., such timber shall be removed in accordance with the regulations of the surface management agency.
13. The coal contained within, and authorized for mining under this lease, shall be extracted only by underground mining methods.
14. Existing Forest Service owned or permitted surface improvements will need to be protected, restored, or replaced to provide for the continuance of current land uses.
15. In order to protect big game wintering areas, elk calving and deer fawning areas, sagegrouse strutting areas, and other critical wildlife habitat and/or activities, specific surface uses outside the

mine development area may be curtailed during specific periods of the year.

16. 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 an acceptable post mining land use.

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

18. The Lessee, at his expense, will be responsible to replace any surface and/or developed ground water sources identified for protection, that may be lost or adversely affected by mining operations, with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, fishery habitat, livestock and wildlife use, or other land uses (authorized by 36 CFR 251).

19. The Licensee/Permittee/Lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the license/permit/lease. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of Interior, and (3) use and occupancy of the NFS not authorized by a permit/operation plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor
Manti-LaSal National Forest
599 West Price River Drive
Price, Utah 84501
Telephone No.: 435-637-2817

who is the authorized representative of the Secretary of Agriculture.

20. Notwithstanding the approval of a resource recovery and protection plan 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 modification will not attain MER resulting from changed conditions, the AO will give proper notice to the operator/lessee as required under applicable regulations. The AO will order a new R2P2 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 MMS 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.

21. **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.

22. **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 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.

23. 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.