



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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



*C/O 15/032 Incoming
 CC: Steve C. B*

JUL 28 2009

IN REPLY REFER TO:

3480
 UTU-68082
 UT (923)

Certified Mail—Return Receipt Requested 7008 1140 0000 3706 0652

Mr. David Hibbs
 Andalex Resources
 Genwal Resources, Inc.
 P.O. Box 1077
 Price, Utah 84501

Re: Non-compliance Mining Conducted on Federal Coal Lease UTU-68082

On October 1, 2008, Bureau of Land Management (BLM) issued a notice of non-compliance to Andalex Resources, Genwal Resources, Inc. (Andalex) for failure to comply with the approved resource recovery and protection plan (R2P2), dated August 17, 2007. The notice of non-compliance included the requirements to correct the noncompliance which were to be submitted to BLM within 60 days of receipt of the letter.

On November 20, 2008, Andalex requested "...an extension of time pending the resolution of the outstanding civil, criminal and administrative matters..." On December 1, 2008 BLM granted a two-week extension for BLM to respond to the Andalex request which was extended one day to December 16, 2008. On December 16, 2008, Andalex reiterated the November 20, 2008 request and provided additional information. BLM responded with a letter dated December 19, 2008, granting a one-time 30 day extension.

Andalex responded on January 6, 2009, stating:

The thirty day time period is not adequate time for the resolution of outstanding civil, criminal and administrative matters outlined in our extension request dated December 16, 2008. We would once again appreciate your consideration of a tolling agreement...

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 DIV. OF OIL, GAS & MINING

After due consideration of the request to further delay the requirements of the October 1, 2008 notice of non-compliance, BLM did not grant any additional extension for Andalex to fulfill the requirements of the notice of non-compliance.

Andalex subsequently timely appealed to the Interior Board of Land Appeals and for a stay of the Notice of Noncompliance. The Interior Board of Land Appeals determined:

Surface Mining Reclamation & Enforcement, 102 IBLA 111, 121 (1988). Thus, the NON cannot be at issue in this appeal. Since it is not at issue, compliance with its requirements cannot be stayed.

Even if UEI were seeking a stay of BLM's January 2009 decision, we would deny it. A stay of the effect of BLM's decision to refuse to further extend the time for compliance would not result in the approval of a further extension. See *Robert E. Oriskovich*, 128 IBLA 69, 71 (1993). In such circumstances, we could not conclude that the relative harms, likelihood of immediate and irreparable harm, or the public interest favored a stay.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, UEI's petition for a stay is denied.

Therefore, Andalex is required, within 15 days of receipt of this letter, to respond to the Notice of Noncompliance dated October 1, 2008.

If you have any questions, feel free to contact me at: 801- 539-4038.

J.D. McKenzie

/s/J D McKenzie

Acting Chief, Solid Minerals Branch

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