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**FAX**

*Incoming  
c/007/013*

**FROM:**

**SOUTHERN UTAH WILDERNESS ALLIANCE  
P.O. BOX 401  
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FX: (435)587-2193**

*Josy Mary Lewis  
Huron, Pam  
(2-sided)*

**TO:**

**Elise L. Erler, Chairperson  
Board of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801  
Fax (801) 359-3940**

*- c/o Vicky Dyson*

**3 pages including this cover**

*I AM -  
LET ME KNOW  
IF WE NEED MORE  
PAGES  
Vicky*

**RECEIVED**

SEP 26 2001

DIVISION OF  
OIL, GAS AND MINING



southern  
utah  
wilderness  
alliance

September 24, 2001

Kurt E. Seel, Esq.  
Assistant Attorney General for the  
Division of Oil, Gas, and Mining  
160 East 300 South, 5<sup>th</sup> floor  
P.O. Box 140857  
Salt Lake City, Utah 84114-0857  
Fax (801) 366-0352

VIA FACSIMILE AND MAIL

Re: Request for Agency Action by Petitioner Southern Utah Wilderness  
Alliance, Docket No. 2001-027; Cause No. C/007/013-SR98(1)

Dear Mr. Seel:

There may be a misunderstanding about our letter to you of September 19, 2001, concerning discovery, and our subsequent discussions. Our discovery request is not limited to the documents listed as items (a) through (h) in that letter but rather includes the additional information requested in the remainder of that letter. We also requested, for example:

- (1) any and all site specific geologic (including faults) reports, field maps, field notes, etc. prepared for this proposed project; and
- (2) any baseline seep and spring survey(s) that the Division relied upon, other than the referenced surveys conducted by JBR Consultants and EarthFax.

We reiterate our request that you locate these and the other requested documents. We request that you make copies of these and other requested documents for us if you located them in your files, even if they might also be available publicly. With respect to our request that you advise us of any other documents the Division or UEI relied upon in the permit process or intend to rely upon at the hearing, the Division and UEI both stated that they intended to rely only on the record before the Division. If our understanding is not correct, please let us know right away. We also seek information on the qualifications of the people involved in the permit process and any documents related to any violations by UEI. As the letter indicates, after we have reviewed the documents you provide, we may seek additional discovery. You have never advised us that any of our requests were considered unduly burdensome or controversial in any way.

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Salt Lake City, Utah 84105  
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Under Utah law, an agency must permit "means of discovery adequate to permit the parties to obtain all relevant information necessary to support their claims or defenses." Utah Code Ann. 63-46(b)-7(1). If we need a Board order to obtain this information, we will seek it. We had understood, however, based on your September 10, 2001 letter and our conversations, that you were amenable to conducting voluntary discovery. If that is not your intention, please let us know as soon as possible. Meanwhile, we will give a copy of this letter to the Board so this matter can be placed on the agenda for the September 26 hearing. We will also continue to work with you and UEI on a stipulation for the September hearing.

Sincerely,



W. Herbert McHarg  
Attorney for Petitioner  
P.O. Box 401  
Monticello, Utah 84535  
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Cc: Elise L. Erlcr, Chairperson, UBOGM (c/o Vicky Dyson)  
Tom A. Mitchell, Assistant Attorney General for UBOGM  
Denise Drago, Attorney for Intervenor, UEI