

**BEFORE THE DIVISION OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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IN THE MATTER OF THE LILA CANYON EXTENSION TO THE HORSECANYON MINE, CARBON AND EMERY COUNTIES, UTAH		INFORMAL CONFERENCE  FINDINGS, CONCLUSIONS AND ORDER  CAUSE NO. C/007/013
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On July 7, 2004, the Division of Oil, Gas and Mining ("Division") held an informal conference concerning Utah American Energy Inc's (UEI's) application for a new Coal Mining and Reclamation Permit (MRP) for the Lila Canyon Extension to the Horse Canyon Mine, Carbon and Emery Counties, Utah. The request for an informal conference was made by Southern Utah Wilderness Alliance (SUWA) by Fax to the Division, May 26, 2004.

The following individuals attended:

Presiding: Lowell P. Braxton  
Director  
Division of Oil, Gas and Mining

Petitioner: W. Herb McHarg and Elliot W. Lipps  
For Southern Utah Wilderness Alliance

Applicant: Denise Dragoo and Jay Marshall  
For UtahAmerican Energy Inc.

Interested  
Party: Ray Peterson and Ira Hatch, for  
Emery County

## FINDINGS OF FACT

1. The administrative completeness determination for the subject permit that triggered this informal conference was made by the Division on March 26, 2004.
2. The opportunity for the public to provide written comments or request an informal conference for this decision closed May 27, 2004.
3. By Fax dated May 26, 2004, SUWA requested an informal conference to discuss issues of concern regarding the Utah Division of Oil, Gas and Mining's determination of Administrative Completeness for the subject permit application package.
4. The Division made an earlier administrative completeness determination for this same permit application package that resulted in an informal conference being held May 21, 2002.
5. The protracted permitting activity that occurred between the earlier determination of administrative completeness prompted the Division to make the Division a second administrative completeness determination on March 26, 2004, thereby re-opening the public comment opportunity referenced in 1, above.
6. Notice of the July 7, 2004 informal conference was properly given.
7. The request for an informal conference was timely.
8. Prior to the conference, a telephone conference call was held by attorneys for the Division, the Petitioner, and the Applicant (Emery County was not a party at that time), to discuss the agenda and timeline for conduct of the July 7, 2004 informal conference.
9. All parties to the conference call agreed to the agenda.
10. Pursuant to Utah Code Ann. Section 40-10-13 and Utah Administrative Rule R645-300-123, an informal conference in the matter was held on July 7, 2004.
11. A record of the informal conference was made by Scott M. Knight, RPR, Thacker & Co., Salt Lake City, UT.
12. The record referenced at 11, above, and a list of those attending the informal conference will be maintained in the conference file.
13. The participants in this informal conference were Southern Utah Wilderness Alliance, Emery County, and Utah American Energy, Inc.
14. The Division and Applicant may require additional time to complete the TA review of the application and to consider the additional information provided at the informal conference.
15. A final decision on the application may require more than 60 additional days, allowed by rule, from the date of closing of the conference.

### CONCLUSIONS OF LAW

1. Utah Administrative Rule R645-300-123 grants affected parties an opportunity to request an informal conference on the application for a new permit.
2. Utah Administrative Rule R 645-300-120 et sec., provides for public participation and comment on a PAP at the time an administrative completeness determination is published.
3. At the informal conference on July 7, 2004 the public was provided an opportunity to comment on the application for the Lila Canyon Extension to the Horse Canyon Mine in the manner anticipated by R645-300-123.
4. R645-300-131.100 requires that a decision on the application be made within 60 days of the closing of the informal conference.
5. The Divisions may require additional time beyond 60 days to review the TA in light of the status of the current review and the additional information provided at the informal conference and may require additional public comment.
6. The hearing examiner may reconvene the informal conference if he determines that additional public comment is necessary.

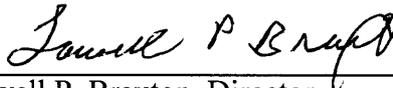
### ORDER

NOW THEREFORE, it is ordered that:

1. The materials submitted by the participants at the July 7, 2004 informal conference and the record created at this conference shall be reviewed and considered by the Division in the normal course of its ongoing review of the new permit for the Lila Canyon Extension of the Horse Canyon Mine.
2. The Division's determination of Technical Adequacy (the TA) shall consider technical issues raised by parties to this conference.
3. Where appropriate, the TA may describe the Division's basis for not incorporating a party's materials or requests into the PAP.
4. The Division shall provide a copy of the final TA to the parties to this Conference.

5. The informal conference shall remain open, and be continued without date during the pendency of the Division's review of the technical adequacy of the Lila Canyon Extension of the Horse Canyon Mine to accommodate the need for additional public comment.
6. If within 15 days of the Division's notification to a party in this conference of the completion of the final TA a party requests an opportunity to discuss the TA with the Division, the Division will schedule and conduct such a meeting within 30 working days of a party's notification.

SO DETERMINED AND ORDERED this 30 day of, July 2004



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Lowell P. Braxton, Director  
Division of Oil, Gas and Mining  
State of Utah

vs.

cc: Lowell Braxton  
Mary Ann Wright  
Herb McHarg, SUWA  
Denise Dragoo, UEI  
Jay Marshall, UEI  
Ira Hatch, Emery Co

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## CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing Finding, Conclusions and Order for Cause No. C/007/013 to be mailed by certified mail, postage prepaid, on the 3<sup>rd</sup> day of August 2004 to the following:

Jay Marshall  
UtahAmerican Energy, Inc.  
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Salt Lake City, Utah 84101

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Ira Hatch  
Emery County  
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Mary Ann Wright  
Division Oil, Gas & Mining  
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Vickie Southwick  
Executive Secretary  
Division of Oil, Gas and Mining

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