

From: "R. Jay Marshall" <jaymarshall@emerytelcom.net>
To: "Pam Grubaugh-Littig" <pamgrubaughlittig@utah.gov>
Date: 10/10/2005 4:04:39 PM
Subject: Donation (Asset Assignment)

Hi Pam:

I have attached an electronic copy of the signed agreement. I have made 5 clean copies with a C1, C2 form to be mailed in the morning. (Today was a holiday)

Any questions please call.

R. Jay Marshall
Project Manager
UtahAmerican Energy, Inc.
P.O. Box 986
Price, Utah 84501

Phone:
Work - (435) 637 5032 ext. 724
Cell - (435) 650 3157

ASSET ASSIGNMENT AGREEMENT

This ASSET ASSIGNMENT AGREEMENT (this "Agreement"), is made and entered into as of the 13 day of September, 2005 (the "Effective Date"), by and between **UTAHAMERICAN ENERGY, INC.** ("UEI" or "Assignor"), a Utah corporation, having an address of P.O. Box 986, Price, Utah 84501, and the **COLLEGE OF EASTERN UTAH FOUNDATION** ("CEUF" or "Assignee"), a Utah Non-Profit Corporation located in Price Utah, having an address of 451 East 400 North, Price, Utah 84501.

RECITALS

A. UEI is the owner of certain assets held in connection with the Horse Canyon Mine, an underground coal mine, including certain surface lands and facilities which are being reclaimed pursuant to the provisions of the Utah Coal Mining and Reclamation Act and Permit No. C/007/013, situated in Carbon County and Emery County, Utah.

B. UEI desires to donate, transfer and assign to CEUF and CEUF desires to accept and acknowledge the donation from UEI of certain of the Horse Canyon Mine property assets and water rights, collectively referred to as the "Donated Property," all subject to the terms and conditions of this Agreement.

NOW, THEREFORE, In consideration of the promises and benefits contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, UEI as Assignor and CEUF as Assignee, agree as follows:

ARTICLE I Definitions

1.1 Certain Definitions. In this Agreement, capitalized terms and other defined terms described before shall have the meanings set forth as follows:

"Agreement" means this Asset Assignment Agreement and the exhibits attached hereto and all agreements or instruments executed in connection herewith or described pursuant hereto.

"Bond" means the Horse Canyon Mine reclamation bond provided by UEI to the Division.

"Coal Act" means the Coal Mining and Reclamation Act and the Federal Surface Mining Control and Reclamation Act.

"Conveyance Documents" means those instruments transferring title to the Donated Property from UEI to CEUF described at Exhibit F hereto.

"Division" means the State of Utah Department of Natural Resources, Division of Oil, Gas and Mining.

"Donated Facilities" means the list of buildings and surface facilities donated by UEI to CEUF and described at Exhibit E hereto.

"Donated Property" means all of UEI's right, title and interest to the real property and surface facilities described at Exhibits A and E hereto and as further depicted on the map attached as Exhibit C hereto and the Water Rights described at Exhibit B hereto.

"Effective Date" means the date of this Agreement first set forth above.

"Environmental Law" means all applicable statutes, ordinances, rules, regulations, licenses, permits, orders and other authorizations of all federal, state and local entities having jurisdiction over the Donated Property.

"Horse Canyon Mine" means the underground coal mine located in Carbon County, Utah, and all associated facilities.

"IRC" means the Internal Revenue Code of 1986, as amended.

"Lila Canyon Mine" means the UEI mining operation located near or adjacent to the Donated Property.

"Phase II and Phase III Bond Release" means the release of portions of UEI's Bond on the Horse Canyon Mine in accordance with the Coal Act.

"Post Mine Land Use" means the land use of the Donated Property under the Coal Act.

"Retained Assets" means those assets retained by UEI as set forth at 3.2 of the Agreement.

"State Historic Preservation Officer" or "SHPO" means the Utah Department of Community and Economic Development, Division of State History.

"Water Rights" means those water rights described in Exhibit B.

ARTICLE II AGREEMENT TO ASSIGN DONATED PROPERTY

2.1 Agreement to Assign. Subject to the terms and conditions of this Agreement, UEI agrees to donate, transfer and assign and CEUF agrees to accept from UEI the Donated Property.

ARTICLE III ASSETS AND LIABILITIES TO BE ASSIGNED AND RETAINED

3.1 Assets to be Assigned. The assets to be donated, transferred and assigned are referred to as the Donated Property.

3.2 Assets to be Retained. The assets to be retained by UEI are:

(a) Coal and Mineral Rights. UEI reserves its interest, if any, in the coal, oil and gas, coalbed methane and other minerals of whatsoever kind, determination or description located within the following described lands within Emery County, Utah:

Township 16 South, Range 14 East:

Section 3: Lots 1, 3, 7, 8, and 11 (approximately 176.13 acres)

(b) Retained Assets described at Exhibit A. UEI retains the assets described under the column “UEI to Retain Ownership” at Exhibit A hereto.

(c) Redden Spring. UEI reserves all right, title and interest in the Redden Spring Water Right No. 91-5084, as described at Exhibit B hereto, and reserves easements across the Donated Property for access to the Water Rights and construction and operation of water pipelines and diversionary facilities related to use of the Water Rights, until the earlier of 5 years from the Effective Date or release by UEI to CEUF upon replacement of the water supplied by this water right.

(d) Water Replacement. UEI reserves the right to use of the Water Rights described at Exhibit B for UEI's mining purposes or for water replacement purposes as defined in the Coal Act, or for any other regulatory compliance requirement and reserves easements across the Donated Property for access to the Water Rights and construction and operation of water pipelines and diversionary facilities related to use of the Water Rights.

(e) Access for Environmental Monitoring and Bond Release. UEI reserves access to the Donated Property for the purpose of conducting environmental monitoring under applicable Environmental Laws and for purposes of completing activities related to Phase II and Phase III Bond Release.

3.3 Liabilities Assumed by Assignee. With the exception of those liabilities retained by Assignor as described at Section 3.4 herein, Assignee assumes all liabilities and obligations with regard to the Donated Property arising after the Effective Date, including but not limited to those arising under Environmental Laws. To the fullest extent permitted by law, except as specifically provided at § 3.4 herein, Assignee shall and hereby agrees to, as of the Effective Date, indemnify and hold harmless Assignor and its shareholders, directors, officers, agents, employees, attorneys, representatives, successors and assigns, individually and collectively (the “UEI Indemnified Parties”) from and against any and all claims, demands, suits, proceedings, damages, losses, liabilities, liens, fines, penalties, claims from indemnification or contribution, and any other matters whatsoever, and all costs and expenses incurred in connection therewith, including attorneys’ fees (collectively the “Claims”), arising from ownership and use of the Donated Facilities or Donated Property after the Effective Date, including but not limited to Claims involving bodily injury and death, property damage and environmental conditions of the Donated Facilities or Donated Property. Assignee shall defend all Claims and pay all costs and expenses incidental thereto, but any of the UEI Indemnified Parties shall have the right, at their option, to participate in their own defense through separate counsel without relieving Assignee of any obligation herein. This Section 3.3 shall survive the Effective Date.

3.4 Liabilities Retained by Assignor. UEI retains all liabilities and obligations relating to the Donated Property that arose prior to the Effective Date, including but not limited to those arising under Environmental Laws and permit requirements. Further, UEI retains responsibility for all liabilities of, obligations for, and terms of compliance with: (i) the UPDES

on the Sedimentation Pond described at Exhibit E; (ii) the Bond and associated reclamation activities under the Coal Act necessary to achieve Phase II and Phase III Bond Release; (iii) the Horse Canyon Mine Permit; and (iv) the Lila Canyon Mine Permit (collectively the “Permitted Activities”). To the fullest extent permitted by law, Assignor shall and hereby agrees to, as of the Effective Date, indemnify and hold harmless Assignee and the College of Eastern Utah and their respective directors, officers, agents, employees, attorneys, representatives, successors and assigns, individually and collectively (the “CEUF Indemnified Partners”) from and against any and all claims, demands, suits, proceedings, damages, losses, liabilities, liens, fines, penalties, claims for indemnification or contribution and any other matters whatsoever, and all costs and expenses incurred in connection therefore, including attorneys’ fees (collectively the “Claims”) arising from ownership and use of the Donated Facilities and Donated Property prior to the Effective Date, and after the Effective Date, only as to Claims arising from the Permitted Activities, including but not limited to Claims involving bodily injury and death, property damage and environmental conditions of the Donated Facilities and Donated Property. Assignor shall defend all Claims and pay all costs and expenses incidental thereto, but any of the CEUF Indemnified Parties shall have the right, at their option, to participate in their own defense through separate counsel without relieving Assignor of any objections hereunder. This Section 3.4 shall survive the Effective Date.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES**

4.1 Conveyance of Donated Property. UEI is donating, transferring and assigning the Donated Property to CEUF, **“AS IS,” “WHERE IS” WITHOUT ANY WARRANTIES OR REPRESENTATIONS AND NEITHER UEI NOR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, ATTORNEYS, AGENT OR REPRESENTATIVES HAS MADE OR MAKES ANY WARRANTY OR REPRESENTATION WHATSOEVER REGARDING THE PROPERTY, OR ANY OTHER MATTER IN ANY WAY RELATED TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO TITLE TO THE DONATED PROPERTY, LEASE, USE, VALUE, ENVIRONMENTAL CONDITION, ACCESS, WETLANDS, OR ANY OTHER CONDITION OF THE PROPERTY OR ANY IMPROVEMENT OR PERSONAL PROPERTY LOCATED THEREON.** This Article 4.1 shall survive the Effective Date.

4.2 Charitable Status of CEUF. CEUF represents and warrants that it is a charitable organization under § 501(c)(3) of the IRC.

**ARTICLE V
SCOPE OF WORK ON DONATED PROPERTY**

5.1 UEI Scope of Work. UEI shall perform, and as of the Effective Date, represents that it has completed the Scope of Work described at Exhibit D (“Scope of Work”).

**ARTICLE VI
MINING ON UEI’S ADJACENT PROPERTY**

6.1 Acknowledgment of Mining. CEUF acknowledges that UEI intends to conduct coal mining activities at the Lila Canyon Mine adjacent to the Donated Property and waives all claims arising from the impact of such land use on the Donated Property. This Section 6.1 shall survive the Effective Date.

ARTICLE VII CONVEYANCE OF DONATED PROPERTY

7.1 Assignor's Conveyance Documents. Upon the Effective Date, UEI shall execute, acknowledge and deliver to CEUF quit claim deeds for the Donated Property in the form set forth at Exhibits F and G hereto.

7.2 Assignee's Acknowledgment of Donation. This Agreement serves as CEUF's acknowledgment of UEI's donation, transfer and assignment of the Donated Property to CEUF and confirmation that no goods or services were provided by CEUF in return for UEI's contribution of the Donated Property. Upon UEI's request, CEUF will provide a separate written acknowledgement of UEI's contribution consistent with Section 170(f)(8) of the IRC and Section 1.170A-13(f) of the Income Tax Regulations.

7.3 Covenant Not to Convey. Except as otherwise agreed to by UEI in writing, CEUF hereby agrees that CEUF will not sell, transfer or otherwise convey the Donated Property to any third party other than any successor in interest within twenty-four (24) months after the date the quit claim deeds referenced in Section 7.1 hereto are recorded in the applicable county recorder's office. CEUF acknowledges that, pursuant to applicable federal tax law, any conveyance within such time period may result in adverse tax consequences to UEI. Accordingly, CEUF hereby agrees to indemnify and hold UEI harmless from any increase in federal and state taxes that result from CEUF's breach of this Section 7.3

ARTICLE VIII MISCELLANEOUS

8.1 Assignment. This Agreement shall not be assigned in whole or part by any party without the prior written consent of the other party, which consent may not unreasonably be withheld.

8.2 Notices. All notices, payments and other communications under this Agreement must be in writing and shall be addressed respectively as follows:

ASSIGNOR: UtahAmerican Energy, Inc.
P.O. Box 986
Price, Utah 84501
Attn: Jay Marshall
Telephone: (435) 637-5511
Facsimile: (425) 675-8840

With copy to:

Snell & Wilmer L.L.P.
15 West South Temple
Suite 1200
Salt Lake City, Utah 84101
Attn: Denise Dragoo, Esq.
Telephone: (801) 257-1998
Facsimile: (801) 257-1800

ASSIGNEE: John Craven, President
College of Eastern Utah Foundation
451 East 400 North
Price, Utah 84501
Telephone: (435) 637-1706

8.3 Expenses and Fees. Each party hereto agrees to pay, without right of reimbursement from the other, the costs incurred by it incident to the preparation of this Agreement, and the fees and disbursements of counsel, accountants and consultants employed by it in connection with the negotiation of this Agreement and the consummation of the transactions contemplated herein.

8.4 Successors and Assigns. Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

8.5 Entire Agreement. This Agreement (together with the exhibits hereto, all of which are incorporated herein and made a part hereof by this reference: (i) supersedes any other agreements, whether written or oral, that may have been made or entered into by any of the parties hereto (or by nay director, officer or representative of such parties) relating to the matter contemplated hereby; and (ii) constitutes the entire agreement by and between the parties hereto and there are no representations, warranties, covenants, agreement s or commitments except as expressly set forth herein.

8.6 Survival. CEUF's obligations described in Section 3.3, 6.1, 7.2 and 7.3 and UEI's obligations described in Section 3.4 of this Agreement shall survive any expiration or termination of this Agreement and shall not merge into any deed delivered and accepted upon the consummation of the transaction herein contemplated.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorize representations the day and year first above written.

ASSIGNOR:

ASSIGNEE:

UTAHAMERICAN ENERGY, INC.

**COLLEGE OF EASTERN UTAH
FOUNDATION**

By: Robert E. Murray
Its: Director

By: Paul Brown
Its: President

EXHIBIT A
to
Asset Assignment Agreement

College of Eastern Utah Foundation
Horse Canyon Project

Legal Description		UEI to Retain Ownership		Donate to College of Eastern Utah Foundation	
		Description	Acres	Description	Acres
Section					
T.16S R.14E Emery County Fee Surface	3			Lots 1,3,7,8,11	176.13
	4	S2SW4	80	NW4SE4, SE4SE4	80
	5	SE4SE4	40		
	9	S2NW4, W2SE4	160	NW4NE4, SE4NE4, NE4SE4	120
	10	SE4	160		
	15	SE4NW4, N2NE4, SE4NE4	160		
T.15S R.14E Carbon County Fee Surface	33			S2SE4	80
	34			SW4SW4	40
T.16S R.14E Emery County Fee Simple	3			Lots 5, 6, 12, NW4SW4, S2SW4	240
	4			Lots 8, 9, NE4SE4, SW4SE4	160
	8	NE4NE4	40		
	9	N2NW4	80		
T.16S R.14E Emery County Fee Simple	15	S2NE4, ALSO, Beginning at the NE corner of the NW4SE4, and running thence W 1000 feet; thence SE'ly to a point 500 feet S of beginning; thence N 500 feet to beginning	91.25		
TOTAL			811.25		896.13

EXHIBIT B
to
Asset Assignment Agreement

DESCRIPTION OF DONATED WATER RIGHTS

- (1) Water User's Claim 91-183: Certificate of Appropriation of Water No. 4592, Application No. 20888, Water Users Claim 91-183, dated August 30, 1952, recorded in Book C of Water Rights at Page 259 in the office of the Emery County Recorder, United States Steel Company, appropriator, appropriating eighty thousandths second feet (.08 cfs) from Horse Canyon Creek, Emery County, Utah, for the period from January 1 to December 31, inclusive, for mining purposes, for diversion and use as set forth in the Deed.

- (2) Water Right No. 91-5084, to appropriate 5.0 acre-feet of water from Redden Spring, located at a point South 2145 feet and West 330 feet from the NE Corner of Section 3, T16S, R14E, SLBM.

Provided, that Assignor reserves the right to use water from the above-described Water Rights for reclamation and mining purposes or water replacement uses at the Horse Canyon Mine and the Lila Canyon Mine, Emery County and Carbon County, Utah.

EXHIBIT C
to
Asset Assignment Agreement

MAP

EXHIBIT D
to
Asset Assignment Agreement

Scope of Work

I. Facility Area:

- 1) Cover all window and door openings. Any damaged or missing plywood panels covering the windows on the following facilities will be replaced with new 3/8" plywood or equivalent.
 - A) Office
 - B) Bath House
 - C) Warehouse
 - D) Shop
- 2) Retain one door opening in each building, preferably in the rear away from traffic. This requirements does not apply to the shop building. The single door retained in each of the three buildings will be steel.
- 3) Install simple lock on the retained doors.
- 4) Fill in all grease sumps and underground passage openings in the shop building with sand/gravel material.
- 5) Remove all equipment & materials not built in, including paper, trash and personal property.

II. Portal Area:

- 1) Remove and dispose of temporary metal fan housing.
- 1) Remove both concrete head collars at ground level.
- 2) Cover remaining concrete with a minimum of 3' of cover material obtained from the existing pad keeping pad as flat as practical.
- 3) Backfill underground rock dust bin.

NOTE:

- a) All concrete and metal will be disposed of in an approved disposal site for non-coal waste. Metal may be salvaged by UEI.
- b) All efforts will be made to minimize disturbance of vegetation and soil.

EXHIBIT E
to
Asset Assignment Agreement

LIST OF FACILITIES

The following is a list of facilities at the Horse Canyon Mine to be donated to the College of Eastern Utah Foundation by UtahAmerican Energy, Inc.

1. Sedimentation Pond #2 (including associated drainage features)
2. Pump House
3. Office Building
4. Bath House
5. Warehouse
6. Shop
7. Chain Link Fence
8. Building Pads
9. Parking Lot
10. Powder Magazine
11. Cap Magazine
12. Water Tank
13. Portal Pad

EXHIBIT F
to
Asset Assignment Agreement

QUIT-CLAIM DEED

WHEN RECORDED, RETURN TO:

Ryan Thomas
College of Eastern Utah
451 East 400 North
Price, Utah 84501

Quit-Claim Deed

UTAHAMERICAN ENERGY, INC., a Utah corporation, having an address of P.O. Box 986, Price, Utah 84501 ("Grantor"), for TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, hereby conveys and quitclaims to the COLLEGE OF EASTERN UTAH FOUNDATION, a Utah Non-Profit Corporation, having an address of 451 East 400 North, Price, Utah 84501 ("Grantee"), all of its rights, title and interest in the lands in Emery County, Utah, described in Schedule "A" hereto, including the buildings and surface facilities described at Schedule B hereto. The conveyance provided for herein shall not include any rights to water or water shares in connection with said real property.

Grantor reserves such easements and rights of way as necessary for Grantor and its employees and representatives to i) access certain water rights located on said real property and to construct and operate water pipelines and diversionary facilities thereon and compliance as necessary; and ii) to access said real property to conduct environmental compliance, monitoring and reclamation activities.

This instrument is executed and delivered pursuant to that certain Asset Assignment Agreement between the parties dated as of September 13, 2005, the terms and conditions of which shall survive the execution and delivery of this instrument.

DATED this 13 day of September, 2005.

GRANTOR:

UTAHAMERICAN ENERGY, INC.

By

Its

Robert G. Murray
Director

STATE OF OHIO)
 : ss.
COUNTY OF BELMONT)

The foregoing instrument was acknowledged before me this 15th day of July,
2005, by Robert E. Murray on behalf of UtahAmerican Energy, Inc.

Denise R. Jackson
Notary Public
Residing at: 62838 McMillan Rd.
Barnesville, OH 43713

My Commission Expires:

DENISE R. JACKSON
Notary Public
My Commission Expires **10-2005**

SCHEDULE "A"
to
Quit-claim Deed

EMERY COUNTY LANDS

Surface Only:

Township 16 South, Range 14 East:

Section 3: Lots 1, 3, 7, 8, 11 (176.13 acres)

Section 4: NW1/4SE1/4, SE1/4SE1/4 (80 acres)

Section 9: NW1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4 (120 acres)

Fee Simple:

Township 16 South, Range 14 East

Section 3: Lots 5, 6, 12, NW1/4SW1/4, S1/2SW1/4 (240 acres)

Section 4: Lots 8, 9, NE1/4SE1/4, SW1/4SE1/4 (160 acres)

CARBON COUNTY LANDS

Surface Only:

Township 15 South, Range 14 East:

Section 33: S1/2SE1/4 (80 acres)

Section 34: SW1/4SW1/4 (40 acres)

SCHEDULE "B"
to
Quit-claim Deed

Buildings and Surface Facilities

1. Sedimentation Pond #2 (including associated drainage features)
2. Pump House
3. Office Building
4. Bath House
5. Warehouse
6. Shop
7. Chain Link Fence
8. Building Pads
9. Parking Lot
10. Powder Magazine
11. Cap Magazine
12. Water Tank
13. Portal Pad

EXHIBIT G
to
Asset Assignment Agreement

WATER RIGHTS DEED

WHEN RECORDED, RETURN TO:

Ryan Thomas
College of Eastern Utah
451 East 400 North
Price, Utah 84501

Water Rights Deed

UTAHAMERICAN ENERGY, INC., a Utah corporation, having an address of P.O. Box 986, Price, Utah 84501 ("Grantor"), for TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, hereby conveys and quitclaims to the COLLEGE OF EASTERN UTAH FOUNDATION, a Utah Non-Profit Corporation, having an address of 451 East 400 North, Price, Utah 84501 ("Grantee"), all of Grantor's rights, title and interests in and to the following described water rights, whose points of diversion and place of use are located in Emery County, State of Utah:

1. Water Right No. 91-183: Certificate of Appropriation of Water No. 4592, Application No. 20888, filed July 22, 1949, Water Users Claim 91-183, dated August 30, 1952, recorded in Book C of Water Rights at Page 259 in the office of the Emery County Recorder, appropriating eighty thousandths second feet (.08 cfs) from Horse Canyon Creek, at a point of diversion located South 910 feet West 1305 feet from the East ¼ Corner, Section 4, Township 16 South, Range 14 East, SLBM, Emery County, Utah, for the period from January 1 to December 31, inclusive, for industrial and domestic uses.
2. Water Right No. 91-5084, to appropriate for mining and other uses 5.0 acre-feet of water from Redden Spring, located at a point South 2145 feet and West 330 feet from the NE Corner of Section 3, Township 16 South, Range 14 East, SLBM.

Grantor expressly reserves and retains the use of said water rights for mining and water replacement purposes and reserves all other water and water rights not specifically herein conveyed.

This instrument is executed and delivered pursuant to that certain Asset Assignment Agreement between the parties dated as of September 13, 2005, the terms and conditions of which shall survive the execution and delivery of this instrument.

DATED this 13 day of September, 2005.

GRANTOR:

UtahAmerican Energy, Inc.

By Robert E. Murray
Its Director

STATE OF OHIO)
: ss.
COUNTY OF BELMONT)

The foregoing instrument was acknowledged before me this 15th day of July, 2005, by Robert E. Murray on behalf of UtahAmerican Energy, Inc.

Denise R. Jackson
Notary Public
Residing at: 62838 McMillan Rd.
Barnesville, OH 43713

My Commission Expires:

DENISE R. JACKSON
Notary Public, State of Ohio
My Commission Expires 9-27-2005