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November 8, 2005

Stephen Bloch
Staff Attorney
Southern Utah Wilderness Alliance
425 East 100 South
Salt Lake City, Utah 84111

Re: Informal Conference for Technical Analysis for Lila Canyon Extension, UtahAmericanEnergy, Inc., Horse Canyon Mine, C/007/0013

Dear Mr. Bloch:

I am writing on behalf of the Division of Oil, Gas, and Mining to ask for clarification concerning some of the comments and issues raised by your October 11, 2005 letter. It is hoped that by providing this response in a written form you may be better able to provide the Division with the clarifications requested. I will refer to issues by the numbers used in your letter.

1. Acid- or toxic-forming materials. To what extent and in what way does the information provided in Appendix 6-2 not satisfy the requirements of the R645-30624.300 and R645-301-626?
2. Subsurface water resource maps. To what extent does the information provided in Appendices 7-1, 7-2, 7-6 and Plate 7-1 not satisfy the requirements of the R645-301-722.100? Is your objection to the amount of data used to generate the aerial and vertical descriptions or the adequacy of the description?
3. Surface water resources. What methodologies do you believe should be used to provide the seasonal flow rates and water quality information for ephemeral and intermittent streams that are dry on routine sampling visits and on all but a few days of each year? What is the potential impact from this mine on the surface flows to any of the intermittent streams?

4. Ground water quantity. To what extent does the information provided in Appendices 7-1, 7-2, 7-6; table 7-2; and Plates 7-1, and 7-3 not satisfy the requirements of the R645-301 724.100? What specifically is missing in your opinion?
5. Ground water quality. To what extent does the information provided in Appendices 7-1, 7-2, 7-6; table 7-2; and Plates 7-1, and 7-3 not satisfy the requirements of R645-301-724.100? What specifically is missing in your opinion?
6. CoalMine waste. What do you understand to be meant by the term "end-dumping" as used by you in your comments and the rules at R645-301-536? What is the rule, guideline, or other basis for your objection to the use of coal waste as structural fill?
7. Groundwater baseline data for water monitoring plan. Is this objection based solely on the objections referred to in the objections to the surface, subsurface, and groundwater data set forth in items 2, 3, 4, and 5 above? If there are additional concerns or objections, what are they?
8. Surface water baseline data for water monitoring plan. Is this objection based solely on the objections referred to in the objections to the surface, subsurface, and groundwater data set forth in items 2, 3, 4, and 5 above? If there are additional concerns or objections, what are they?
9. The PHC is flawed. Is this objection based solely on the objections referred to in the objections to the surface, subsurface, and groundwater data set forth in items 2, 3, 4, and 5 above? If there are additional concerns or objections, what are they? Are you objecting because information was used that was collected for other applications and not solely for this permit?
10. Water consumption. What are the inconsistencies in the descriptions of the quantities of water that will be consumed by the mining operation? Are there inconsistencies in the descriptions or differences between the discussion in the amount of water use and the calculations of water loss? What are the hydrologic and geologic inconsistencies?
11. Operation plan. This objection is very general. Could you identify the local hydrologic conditions that are not considered? Does this objection refer to the impacts to the hydrology in the area of the surface facilities or to the hydrologic balance in the strata above the mine? What are the further steps that could be considered or taken to minimize the impact?

12. Cumulative Hydrologic Impact Assessment. Is this objection based solely on a continuation of the objections to the sampling methods and baseline information set forth in items 2, 3, 4, and 5 above? What are the other objections to the determination of the hydrologic boundary and the conclusions in the CHIA? What areas of concern are outside of the CHIA boundary, and how might they be affected by the mining operations?
13. Transportation facilities. Is there a legal basis in rule or statute that would require the Division to evaluate the overland conveyor or rail spur prior to receiving an application that includes plans for its construction?
14. Historic and archeological resource information. What does SUWA believe is the factual and legal basis for claiming that the MRP-B does not comply with the National Historic Preservation Act? What does SUWA believe to be the type and amount of cultural resource surveying required for protection of an area of potential subsidence? What archeological information is conflicting other than the difference between "not likely affect" and the legal determination of "no effect"?
15. Fish and Wildlife resource information. Does SUWA believe the monitoring plan for raptors as described in the TA is inadequate? If so, what is the basis for this determination and what would it recommend as a different plan? Is the potential impact to currently empty Golden Eagle nests considered a taking under 16 U.S.C. § 1532(19)?
16. Coal haul road. This is the proposed Emery County road 126. What is SUWA's response to UEI's position that the exclusion of the access road from the permit application review is an issue that was resolved by the prior Board decision and that decision is now *res judicata*? Does SUWA agree that the criteria and authority of the stipulation letter of July 3, 1995 governs the determination of the regulatory authority of the Division over the access road?
17. Air quality. Assuming the coal access road is not included in the permit, does SUWA understand that UEI intends to pave the truck loadout road (located on the permit), but not the mine facilities access road (also located on the permit)? Does SUWA find these operations to be inconsistent with the Division of Air Quality permit?

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Your careful analysis of the permit application is appreciated by the Division. We will suggest to the presiding officer that the informal conference be kept open to provide you with additional time, if needed, to provide the requested additional information.

Very truly yours,



Steven F. Alder
Assistant Attorney General

cc: Denise Dragoo
T. Ira Hatch
John Baza
Heather B. Shilton