

### Document Information Form

Mine Number: C0070013

File Name: INCOMING

To: DIVISION OF OIL, GAS AND MINING

**From:**

Person STEVE BLOCH

Company SOUTHERN UTAH WILDERNESS ALLIANCE

Date Received: DECEMBER 8, 2005

**Explanation:**

During The 12/8/2005 Meeting With Steve Bloch About Lila Canyon He Gave The Division  
The Attached Background Information.

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cc:



southern  
utah  
wilderness  
alliance

RECEIVED

DEC 8 2005

DIV. OF OIL, GAS & MINING

BY FAX 533-3503 AND FIRST CLASS MAIL

November 8, 2005

Wilson Martin – Associate Director and State Historic Preservation Officer  
Kevin Jones – State Archeologist  
Utah Division of State History  
300 Rio Grande  
Salt Lake City, Utah 84101-1182

C/007/0013

Re: Proposed Horse Canyon Extension – Lila Canyon Mine (Utah American Energy Inc., C/007/0013)

Greetings:

I am writing to you regarding the proposed Horse Canyon Extension – Lila Canyon Mine (Lila Canyon mine) in Carbon County, Utah that is currently being analyzed by the Utah Division of Oil, Gas, and Mining. As part of the permitting process for this proposed coal mine, DOGM is required to consult with your office and to comply with the requirements of the National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470 et seq. See Utah Admin. R645-300-113 and -411.142. To date, DOGM has completely failed to comply with Section 106 of the NHPA and thus your office cannot concur with DOGM's "no historic properties affected" finding.<sup>1</sup>

As you know, the heart of the NHPA is Section 106, which prohibits agencies from approving any "undertaking," including the issuance of any license, permit, or approval unless the agency takes into account the effects of the undertaking on historic properties that are include in or eligible for inclusion in the National Register of Historic Places. 16 U.S.C. §§ 470(f) and 470(w)(7). The NHPA's implementing regulations, 36 C.F.R. Part 800, detail the process for full compliance with Section 106. DOGM has failed to comply with virtually every requirement of the Section 106 process. Specifically, DOGM has failed to:

- determine whether this action is an "undertaking," and if so, whether it has the potential to cause effects to historic properties (36 C.F.R. § 800.2);
- identify appropriate participants in the Section 106 process (36 C.F.R. § 800.2);

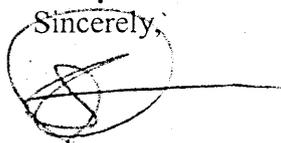
<sup>1</sup> DOGM's September 2005 technical analysis (TA) for the proposed Lila Canyon mine contains conflicting information regarding the "effect" of the proposed Lila Canyon mine to cultural resources. For example, the TA states both that "Lila Canyon extension project will have 'no effect' to historic resources" and that "the Lila project will not likely affect 42EM2255 and 42EM2256." TA at 15 (attached hereto as Exhibit 1). In a March 1, 2005 letter to Jim Dykman, DOGM asked for SHPO's concurrence in a "no historic properties affected" determination. (Attached hereto as Exhibit 2). To the best of SUWA's knowledge, Mr. Dykman did not respond to this request.

425 East 100 South  
Salt Lake City, Utah 84111  
Phone: 801-486-1161  
Fax: 801-486-4333  
Website: www.suwa.org

- identify other consulting parties, plan to involve the public, identify appropriate Indian tribes, and, involve local government and the project applicant (36 C.F.R. § 800.3);
- determine and document the project's "area of potential effects" (36 C.F.R. § 800.4);
- gather information from Indian tribes (36 C.F.R. § 800.4); and,
- identify historic properties, evaluate their historical significance, and, determine whether the proposed undertaking may have an adverse effect on those properties.

DOGM's technical analysis and more lengthy permit application for the proposed Lila Canyon coal mine does not even contain (or refer to) a complete class I review for the portions of the project area which may be effected by coal mining. The technical analysis and permit application are clear, however, that the vast majority of the permit area may be subject to ground disturbance related to subsidence (i.e., subsidence fractures over 3 feet wide and several hundred feet in length). See e.g., Plate 5-3 (project map depicting maximum extent of subsidence) (attached hereto as Exhibit 3).

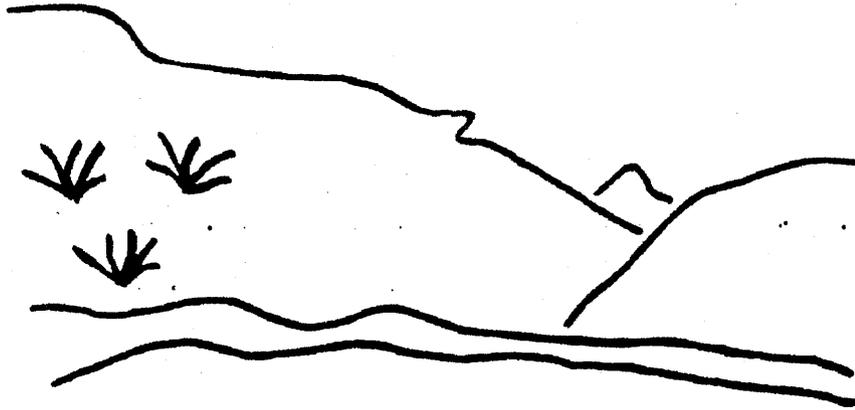
In short, it is incumbent that your office does not concur with DOGM's "no historic properties affected" determination until and unless DOGM complies with Section 106 of the NHPA. Feel free to contact me with any questions regarding the information detailed above: 486-3161 x.3981.

Sincerely,  


Stephen Bloch  
Staff Attorney

# **EXHIBIT 1**

# State of Utah



## Utah Oil Gas and Mining

### Coal Regulatory Program

Horse Canyon Mine  
Lila Canyon Extension  
C/007/0013, Task #2304  
September 21, 2005

**Analysis:**

The Permittee met the requirements of the regulations outlined in this section of the TA. Those rules require that the Permittee describe and identify the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought.

The permit area is divided in two parts: the Horse Canyon Mine (Part A) and the Lila Canyon Extension (Part B). The Permittee shows the permit boundary on several maps including Plate 1-1, Permit Area Map.

Table 1-1 shows federal coal leases acreage. Table 4-2 breaks out the surface acreage of private, state and federal ownership within Parts A and B of the permit area. Table 4-2A breaks out the private, state and federal acres of coal ownership within Parts A and B of the permit area.

Plate 5-5, Mine Map, shows mining of reserves from 2005 to 2019, a 14-year life-of-mine. Table 3-3 shows that reclamation will begin in 2020.

The surface facilities for MRP- Part B Lila Canyon will be located in SE $\frac{1}{4}$ SW  $\frac{1}{4}$ , Sec 15, T.16 S., R.14 E. The area is located upon an alluvial/colluvial bench at an elevation of 5,800 to 6,500 ft., where the two forks of Lila Canyon converge. The perimeter of the disturbed area contains approximately 42.6 acres. The actual disturbance for construction of pads, silos, coal processing structures, and parking will take approximately 25.3 acres, leaving 17.3 acres of undisturbed islands within the disturbed area. The Permittee illustrates the disturbed area boundary on several maps including Plate 1-2, Disturbed Area Map.

**Findings:**

Information provided in the MRP-Part B meets the Permit Area requirements of the Regulations.

**HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 783.12; R645-301-411.

**Analysis:**

The MRP-Part B met the requirements of R645-301-411 pertaining to historic resources. The MRP Confidential Binder includes numerous evaluations of historic resources that focus on the permit area). The MRP also includes narrative and maps that describe or illustrate locations of historic resources within or adjacent to the permit area. The Permittee summarizes the results

**ENVIRONMENTAL RESOURCES INFORMATION**

September 21, 2005

of reports up to 2004 and provides details of historic properties within the area (Confidential Binder, App. 4-1). There is proof of coordination efforts with SHPO. The Division, in consultation with SHPO, considers that the Lila Canyon extension project will have "no effect" to historic resources.

Blaine Miller (1991) conducted a cultural resource inventory in T. 16 S., R. 14 E. (report number U-91BL-656). His results showed that 42EM2255 and 42EM2256 are eligible for listing in the NRHP. Currently, the MRP-Part B does not include a complete report. The Permittee could not locate the completed report because BLM or SHPO no longer have the report on file. Sites 42EM2255 and 42EM2256 are not near the surface disturbance area, but are within the 21.5-degree angle of draw for subsidence. The Division, under consultation with SHPO, determined that the Lila project will not likely affect 42EM2255 and 42EM2256.

The Division received comments that the Permittee must perform cultural surveys for all areas subject to subsidence. The regulations do not require historic resource surveys for all areas. The Permittee provided adequate historic resource surveys in the MRP-Part B.

There are no cemeteries in or within 100 feet of the MRP-Part B permit area, and it contains no units of the National System of Trails or Wild and Scenic Rivers system.

**Findings:**

Information provided in the MRP-Part B meets the Environmental -Historic and Archeological Resource Information requirements of the Regulations.

**CLIMATOLOGICAL RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 783.18; R645-301-724.

**Analysis:**

The Permittee complied with R645-301-724.400 by providing all required information regarding climatological factors that are representative of the proposed permit area. The data come from the National Weather Service's cooperative weather station located in Sunnyside, Utah for the period 1971 to 2000. The information is found in Section 724.410 of the MRP - PART B.

**Findings:**

Information provided in the MRP-Part B meets the Climatological Resource Information section of the Regulations.

# **EXHIBIT 2**



## State of Utah

### Department of Natural Resources

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas & Mining

MARY ANN WRIGHT  
*Acting Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

March 1, 2005

Jim Dykman, Cultural Resources Coordinator  
DCED - State History Division  
300 Rio Grande  
Salt Lake City, Utah 84111

Subject: SHPO Clearance for Lila Canyon Extension, Utah American Energy, Inc.  
(UEI), Horse Canyon Mine, C/007/0013, #2055, Outgoing File

Dear Mr. Dykman:

The Horse Canyon Mine is in the Book Cliffs coalfield in Emery County Utah, near East Carbon and Sunnyside, on the western slope of the Tavaputs Plateau. The proposed Lila Canyon Project facilities site is five miles east of State Highway 6. The 7.5 Minute Quadrangle maps that cover the permit area are Cedar and Lila Point (Geological Survey of the U.S. Department of the Interior).

The Division may have consulted with your office on previous editions of this plan. The Permittee, however, submitted additional information in 2003. The Division requests concurrence from SHPO with our determination for the Lila Canyon project. The following provides pertinent information that may be useful during the consultation process. The list is not inclusive of all surveys of the area, but includes pertinent or current surveys:

- Keith Montgomery 1999. U-98-MQ-0739b.
  - o Findings/Recommendation: 42EM2517 (Freemont rock shelter) is classified as eligible for listing in the National Register of Historic Places (NRHP). This site is susceptible to damage caused by secondary mining operations. Montgomery recommends protecting 42EM2517 through a data recovery project.
  - o Communications: Montgomery prepared the required data recovery plan for 42EM2517. BLM submitted the plan to SHPO. The data recovery project will begin following approval of the mine plan (Blain Miller, BLM, 5/04).
- Blaine Miller 1991. No permit number provided.
  - o Findings/Recommendation: 42EM2255 and 42EM2256 (both have lithic scatter) are classified as eligible for listing in the NRHP.

Page 2  
Jim Dykman  
March 1, 2005

- o Communications: Neither BLM nor the Division has a copy of the report or an official copy of correspondence with SHPO. All information concerning these two sites came from personal communications and BLM field notes.

Sites 42EM2255 and 42EM2256 are not near the proposed surface facilities site, but are within the 21.5-degree angle of draw for subsidence. Both sites are over 1000' of cover. The Permittee states that the area will subside, but subsidence will be a general ground lowering of the area.

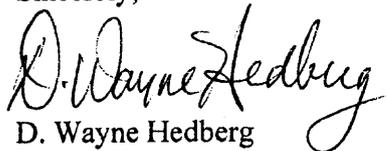
The Division supports that a finding of "no historic properties affected" is appropriate for the proposed project because:

- BLM will recover eligible site 42EM2517 prior to construction.
- Eligible sites 42EM2255 or 42EM2256 are not within the proposed facilities site.
- There is 1000' of cover over 42EM2255 or 42EM2256, therefore little chance of tension cracks from subsidence.

The Division considers that the permit should receive clearance without additional stipulations.

The Permittee plans to start the project sometime in 2005. We would appreciate your response by April 6, 2005 so we may proceed with the review process. If we have not heard from your office by the set date, we will consider that SHPO concurs with the Division's findings. If you have any questions about this project, please call me at (801) 538-5286 or Jerriann Ernsten at (801) 538-5214.

Sincerely,

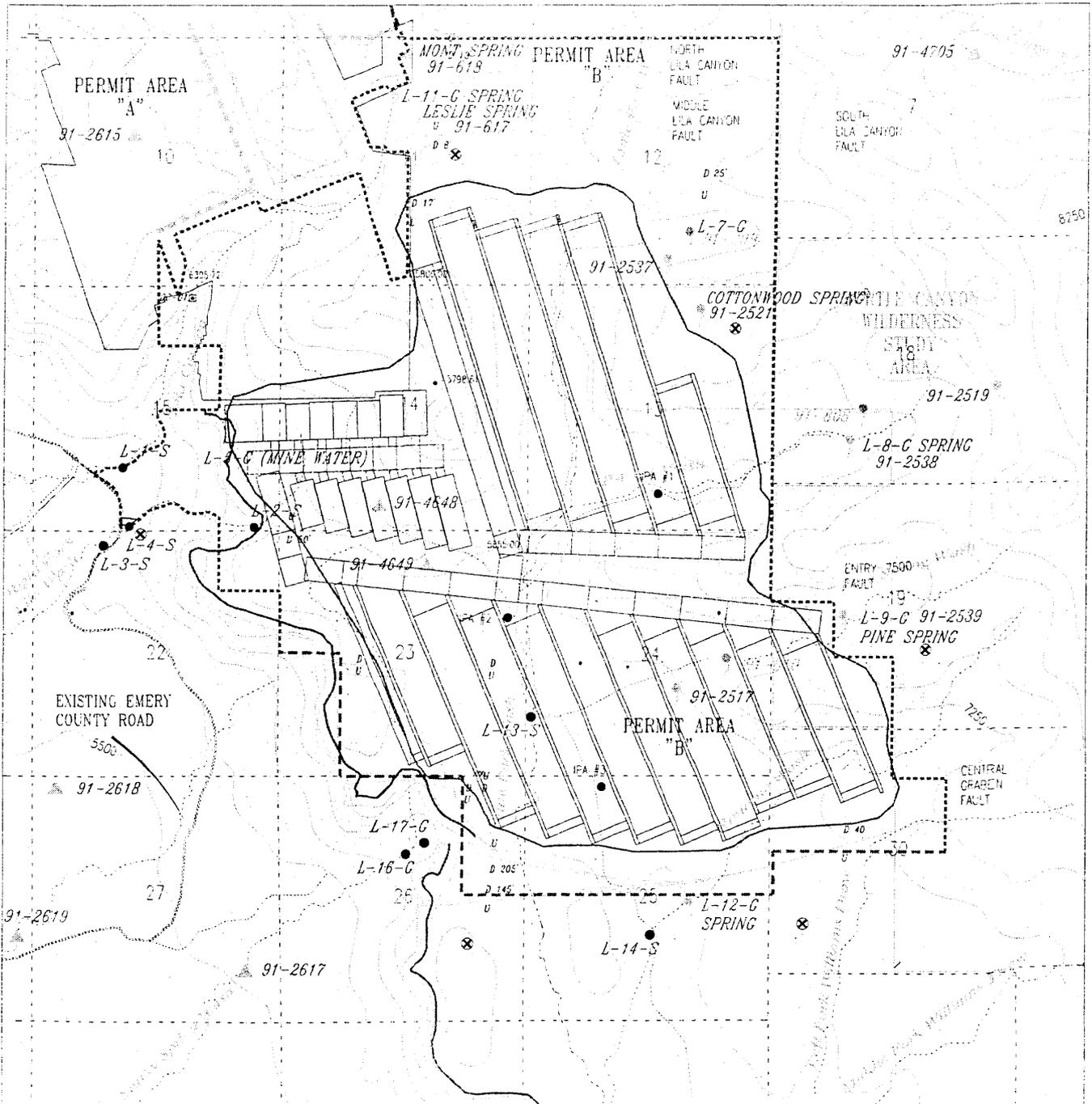


D. Wayne Hedberg  
Permit Supervisor

an  
cc: Price Field Office  
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Copies of Plate 4-3, Cultural Resources, have been place in the CONFIDENTIAL files.

# **EXHIBIT 3**



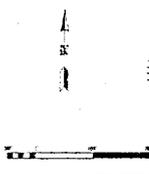
**LEGEND:**

PERMIT AREA "A" (10-A) (DASHED LINE)  
 PERMIT AREA "B" (10-B) (DASHED LINE)  
 EARTH CHANNEL  
 ROAD  
 CITY OUTCROP  
 TOWN  
 WELDED: STUDY AREA  
 POINTS  
 MAXIMUM EXTENT OF SUBSIDENCE  
 (BASED ON 200' SPIRAL STAIN)  
 OUTCROP BARREN (BASED ON 200' SPIRAL STAIN)  
 (BASED ON 200' SPIRAL STAIN)

✗ PROPOSED SUBSIDENCE POINTS  
 91-2537 WATER POINT NUMBER  
 91-2519 WELDED  
 91-2538 WELDED  
 91-2539 WELDED  
 91-2537 WELDED  
 91-2517 WELDED  
 91-2519 WELDED  
 91-2538 WELDED  
 91-2539 WELDED  
 ● WATER MONITORING LOCATION

REVISION DATE:

NOVEMBER 20, 1991	5	JANUARY 2002	6, 7
NOV 21 2002	5		
JUN 18 2003	5		
MAY 7 2003	6		
MAY 1 1992	5		
MAY 18 1992	5		
MAY 22 1991	5		



**LILA CANYON MINE**

Subsidence Control Map

NOVEMBER 1999

AS SHOWN PLATE 5-3