

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	:	INFORMAL CONFERENCE
CANYON EXTENSION TO THE	:	FINDINGS OF FACT,
HORSE CANYON MINE, CARBON	:	CONCLUSIONS OF LAW
AND EMERY COUNTIES, UTAH	:	AND ORDER
	:	CAUSE NO. C/007/013

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BACKGROUND

On November 8, 2005, the Division of Oil Gas and Mining (the "Division") held an informal conference in the above-captioned matter at the Division of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. Director John R. Baza conducted the informal hearing under provisions of the Utah Administrative Procedures Act, Division Administrative Rules, and other applicable law.

Assistant Attorney General Steven F. Alder represented the Division at the hearing. Denise Dragoo, Esq. represented Applicant/Respondent UtahAmerican Energy, Inc. ("UEI"). Stephen Bloch, Esq. represented Interested Party/Intervener Respondent Southern Utah Wilderness Alliance ("SUWA"). Ray Peterson, Public Lands Administrator, represented Interested Party Emery County, Public Lands Department.

Mr. Elliot W. Lipps, commented for SUWA. Mr. Jay Marshall commented for UEI. Deputy Director Mary Ann Wright commented for the Division. After hearing from all parties, receiving full disclosure of relevant facts, reviewing submitted exhibits, and considering the evidence and relevant law, the Director Baza hereby makes the following findings of fact and conclusions of law, and issues the order below.

FINDINGS OF FACT

1. By Order dated July 30, 2004, Lowell P. Braxton, then Director for the Division held the previous informal conference in this matter open and 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. This was done to accommodate the need for additional public comment.
2. Mr. Braxton also ordered that if within 15 days of the Division's notification to a party in this conference of the completion of the final Technical Analysis ("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.
3. The Division finalized the review for the TA and notified parties to the previous informal conference on September 21, 2005.
4. On October 11, 2005, SUWA hand delivered a letter to the Division commenting on the TA and requested an informal conference to be held at the Division's Salt Lake City office.
5. The October 11th request from SUWA for informal conference was timely.
6. The supplemental hearing was scheduled for November 8, 2005, and notice was properly given.
7. The supplemental hearing was held as scheduled on November 8, 2005.
8. A record of the informal conference was made by Nancy A. Fullmer, RPR, Thacker & Co., Salt Lake City, Utah.
9. The record referenced in 8, above, will be maintained in the conference file.

CONCLUSIONS OF LAW

1. Utah Code Annotated § 40-10-6.7(1)(b) requires that informal conferences shall be "governed by rules adopted by the board which are in accordance with Title 63, Chapter 46b, Administrative Procedures Act."

2. Utah Code Annotated § 40-10-13(2)(a) provides that if an initial or revised application for a permit for surface and coal mining and reclamation operations is filed with the Division, then "(a)ny person having an interest which is or may be adversely affected . . . shall have the right to file written objections . . . with the division within 30 days after the last publication of the notice."

3. Utah Code Annotated § 40-10-13(2)(b) provides that "(i)f written objections are filed and a conference requested, the division shall then hold a conference within a reasonable time of the receipt of the objections or request. The conference shall be informal and shall be conducted in accordance with the procedures described in this Subsection (b), irrespective of the requirements of Section 63-46b-6."

4. Utah Administrative Rule R645-300-123.240 provides that "(t)he requirements of the Procedural Rules of the Board of Oil, Gas and Mining (R641 Rules) will apply to the conduct of the informal conference. The conference will be conducted by a representative of the Division, who may accept oral or written statements and any other relevant information from and party to the conference. . . ."

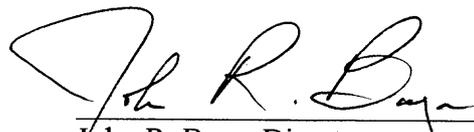
5. Utah Code Annotated § 40-10-14(1) provides that "(i)f a conference has been held under Subsection § 40-10-13(2), the division shall issue and furnish the applicant for a permit and persons who are parties to the proceedings with the written finding of the division granting

or denying the permit in whole or in part and stating the reasons, within the 60 days after the conference."

ORDER

1. The informal conference will be closed as of the end of the business day on Friday, November 18, 2005.
2. Parties to the informal conference will have until the close of the informal conference to submit any additional information or further comment on the TA for consideration by the Division in reaching a final permit decision.
3. The Division will review the application for permit by UEI; written comments and objections submitted; and the records of the informal conferences held on the application and issue a written decision within 60 days after the close of the informal conference.

DATED this 2ND day of December 2005.



John R. Baza, Director
Division of Oil, Gas and Mining

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of December, 2005, I caused a true and correct copy of the foregoing Findings of Fact, Conclusions of Law and Order to be mailed, postage prepaid, to the following:

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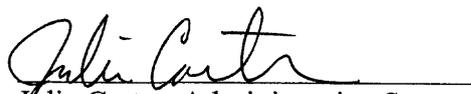
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